

# FREE FOR ALL



Fighting for the rights of transgender students — page 5

SUMMER 2017



An estimated crowd of 50,000 people turned out in Philadelphia for the Women's March in January.

## Victory for Lancaster Refugee Students

This spring, the ACLU of PA and our co-counsel at the Education Law Center and Pepper Hamilton LLP won a victory on behalf of six refugee students with limited English proficiency who had been diverted by the School District of Lancaster (SDOL) to a privately operated disciplinary school, Phoenix Academy, without appropriate language assistance.

Under Pennsylvania law, every child aged 6 through 21 has the right to a free public education in that child's school district of residence. Under federal and state law, school districts are obligated to provide students whose primary language is not English with appropriate bilingual or English as a second language instruction and language supports.

After a federal district court ruled in favor of the students and the federal appeals court upheld that ruling, the school district agreed to settle the litigation. The settlement will ensure that, in the future, immigrants new to the United States will be placed in the district's main high school, McCaskey. This is the third lawsuit of its kind in the country but the first to go to trial and first to result in a decision.

Read more about the lawsuit, *Issa v. School District of Lancaster*, at [www.aclupa.org/issa](http://www.aclupa.org/issa).

## Building the Resistance



By **Reginald T. Shuford**  
Executive Director

**IN SOME WAYS,** our country changed on November 8, 2016. The United States elected a leader who, by all measures, is hostile to the basic foundations and principles that we stand for. Based on his campaign promises and the priorities that have

emerged since his election, President Trump and his regime deserve every ounce of pushback we can gather, and the ACLU will be on the front lines of the resistance.

And yet, at the ACLU of PA, we have always taken the long view. Issues that are with us today were with us before November 8 and, to one degree or another, would have continued regardless

of who was elected president, including mass incarceration, police brutality, inequality for gay and transgender people, and efforts to compromise women's access to reproductive healthcare.

You may have heard that there has been a major increase in giving to the ACLU since the election. We will need every bit of it to sustain an effective resistance over the next few years. While much of that growth has occurred at the national level, in fact, here in Pennsylvania, our membership has tripled. You have put your trust in the ACLU in these challenging times. We are grateful for that trust and take it as a responsibility. Thank you.

The generous outpouring of support we've received in recent months has allowed us to think big about our work. It is my intention to add new staff to our existing staff of 23. Our current team has the talent, skills, and persistence to take on the many challenges before us. I also know that we can advance the cause of civil liberties throughout

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## FROM THE PRESIDENT



Dear ACLU supporter,

We are in a crisis moment for civil liberties in the United States. But we are also in a moment of great opportunity.

The Trump administration has made clear its hostility to the rights we hold dear. The president and his sidekicks are eager to undermine fundamental fairness for immigrants, Muslims, women, LGBTQ people, African-Americans, people with disabilities, and anyone in need of access to healthcare.

And while Attorney General Sessions has largely flown below the radar as the Crisis of the Day engulfs the White House, at the ACLU, we are all too aware of the danger of Sessions' vision for civil rights.

The attorney general's directive to U.S. attorneys to prosecute drug offenses to the fullest extent allowed by law is the same, tired mentality that has led to mass incarceration. And it is hopelessly out of touch with the building consensus—among people of all political stripes—toward criminal justice reform, or what we at the ACLU call “smart justice.”

Here at the ACLU of PA, smart justice means educating voters in Philadelphia about the key civil liberties issues that were at stake in the recent primary election for district attorney. Smart justice means countering the effort by prosecutors at the state capitol to reinstate mandatory minimum sentencing, which has been on hold in the commonwealth for two years as a result of court rulings. Smart justice means taking a deep dive—county by county—into the practice of courts incarcerating people for failure to pay fines and other debts, creating modern day debtors' prisons. And smart justice means supporting the legislative effort to offer people with criminal records a “clean slate,” an innovative idea to seal automatically from public view records of minor offenses, which would better enable individuals to reenter society after convictions and arrests.

These are troubled times. I am grateful for the opportunity to lead this great organization, to work with Reggie Shuford and our hard-working staff, and to have your support. Resist.

In liberty,

Tracey McCants Lewis, President  
ACLU of Pennsylvania

*Resistance, continued from page 1*

Pennsylvania by bringing even more talented people on board. The times demand it. Your support enables it.

In the months ahead, you'll hear more about our Smart Justice campaign, our effort to reform, reinvent, and revamp the criminal justice system; our Transgender Public Education and Advocacy Project; the many bills we're advocating for and against at the state capitol; and more litigation to push back against government excesses wherever they occur.

The ACLU of PA is prepared to thwart the Trump administration's worst instincts as they play out in the commonwealth. And we have the infrastructure and the experience to defend civil rights at every turn.

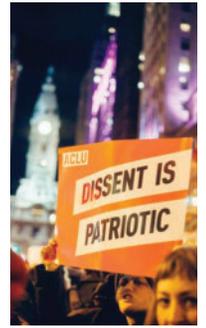
My favorite playwright, Pittsburgh native August Wilson, said this about gratitude in his play *Two Trains Running*:

“You walking around here with a ten-gallon bucket. Somebody put a little cupful in and you get mad 'cause it's empty. You can't go through life carrying a ten-gallon bucket. Get you a little cup. That's all you need. Get you a little cup and somebody put a bit in and it's half-full.”

Well, thanks to you, our ten-gallon bucket runneth over.

Onward,

Reggie Shuford  
Executive Director  
ACLU of Pennsylvania



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The official registration and financial information of the American Civil Liberties Union of Pennsylvania may be obtained from the Pennsylvania Department of State by calling toll-free, within Pennsylvania, 1-800-732-0999. Registration does not imply endorsement.



John Anderson, whose son was a plaintiff in the ACLU's successful lawsuit over the state's treatment of mentally ill defendants, with ACLU-PA Executive Director Reggie Shuford.

## Defendants with Severe Mental Illness Jailed for Well Over a Year Awaiting Mental Health Treatment

**THE ACLU OF PA** was back in court in June to enforce a settlement we reached last year with the Pennsylvania Department of Human Services (DHS) that aims to bring sweeping changes to the commonwealth's under-resourced forensic mental health services.

The settlement stems from an October 2015 class action lawsuit, *JH v. Dallas*, filed on behalf of hundreds of defendants with severe mental illness who have been deemed incompetent to stand trial on criminal charges and ordered by a court to receive mental health treatment at one of two state forensic hospitals operated by DHS. Because of a lack of treatment opportunities, these individuals have been detained in Pennsylvania's county jails—often in solitary confinement—for months and, in some cases, for over a year awaiting treatment as their

mental health deteriorates further. The two state hospitals, Norristown in the east and Torrance in the west, had wait lists of 220 people for about 190 beds.

Federal courts have found that delays of longer than seven days between a court's commitment order and hospitalization for treatment are unconstitutional. At the time we filed the lawsuit, wait times for the state forensic hospital in Norristown averaged almost 400 days, with some people waiting as long as 589 days. In some cases, they spent more time waiting in the county jail for a forensic bed than they would have if they'd been convicted of the underlying crime.

In January 2016, the ACLU settled the lawsuit. The commonwealth agreed to add over 100 beds to the mental-health programs that serve this population of very ill people. They also agreed to

investigate how and why the wait times were so bad. The year-plus waits in eastern Pennsylvania are the longest in the country.

Since early 2016, the commonwealth added the beds required under the settlement, but, for reasons DHS cannot explain, neither the wait lists nor the wait times have decreased. One person waited 788 days before being transferred from the Philadelphia jail to Norristown. The ACLU's motion to enforce and expand the settlement resulted in DHS agreeing in June to hire an independent expert to examine why the delays persist and present a plan for how to fix them and to add more than a hundred additional beds while we await the expert's report.

Read more about *J.H. v. Dallas* at [www.aclupa.org/dallas](http://www.aclupa.org/dallas). ■



**Name:** Nick Pressley

**Hometown:** Tyrone, PA

*This spring, Nick Pressley was the campaign manager for ACLU-PA's Vote Smart Justice campaign, a grassroots public education effort during the primary election for district attorney in Philadelphia.*

**You had a whirlwind couple of months with us. A lot happened in a short period of time. Why did you take on the challenge of running our #VoteSmartJustice campaign in the Philadelphia DA's race?**

I've been a strong supporter of criminal justice reform in my personal life, but I hadn't had a professional opportunity to work within this field until this campaign. I saw that the work was important, and I knew that I had the experience needed to make it a success. Taking advantage of this opportunity was really a no-brainer.

**Most of our canvassers have criminal records. Why do you think it was important to hire people with that background?**

I can speak from personal experience when I say that once you find yourself tagged with a criminal record, life gets different. This work is all about changing hearts and minds. Speaking to someone with direct experience is far more effective and motivating than to

someone who knows the theory but not the reality, so to speak.

**Did the campaign meet the expectations you had before it started? Were there any surprises?**

I can honestly say that the campaign exceeded my expectations in many areas. There were inevitable hiccups, but the staff really managed them well. One big surprise was the relative lack of major problems. I really want to express my appreciation for the affiliate's staff with this work. The level of professionalism, adaptability, and talent in that

office is unbelievable. The canvassers themselves exceeded my expectations. It's one thing to understand why it's best to use affected people, but many times in the past I hadn't been allowed to hire people with criminal records. The amount of buy-in and passion for the program was amazing to be able to finally witness in person. This also extended to the membership. While we may assume that ACLU members are supportive of the work that we do, this is still a very new avenue for the organization to take. New avenues can be scary, and it's a testament to the organization and the membership the amount of readiness and the willingness to stand at the forefront of the humongous tasks we have ahead of us as a country.

**What do you like to do when you're not organizing people at the grassroots and managing campaigns?**

After and in-between campaigns, I come home to Central PA, where I live with my beautiful wife. We like to take our son swimming in the summer to one of the local water parks or natural swimming holes. We also catch up on our Netflix shows and visit our favorite date locations. I'm a huge video game nerd as well.

The entirety of this conversation is available at [medium.com/@ACLUPA](https://medium.com/@ACLUPA). ■



Nick Pressley briefs the #VoteSmartJustice team before a day of canvassing on Election Day.

# ACLU-PA Defends Rights of Transgender Students



ACLU-PA client Aidan DeStefano.

**AFTER A PUBLIC SCHOOL DISTRICT** in Berks County was sued this spring for its practice of recognizing and respecting the gender identities of its students, the ACLU of PA and the ACLU's LGBT and AIDS Project intervened to defend the policy on behalf of a high school student and an LGBTQ youth organization.

Our clients are Aidan DeStefano, a transgender boy who just finished 12th grade at Boyertown Area Senior High ("BASH"), and the Pennsylvania Youth Congress, a youth-led statewide LGBTQ advocacy organization dedicated to empowering LGBTQ (lesbian, gay, bisexual, transgender and queer) youth to advocate for their own interests, individually

and through youth-led groups and organizations, including the Boyertown GSA.

The district's practice ensures that students can participate in scholastic activities based on their gender identities, including the use of bathrooms and locker rooms. That policy drew a federal lawsuit from other students and their parents, who have sued under pseudonyms, with representation from the Alliance Defending Freedom and the Independence Law Center.

A hearing is scheduled for mid-July. More information on the case is available at [aclupa.org/boyertown](http://aclupa.org/boyertown). ■

*“Schools that foster inclusive environments for all students, including transgender youth, should be commended, not sued.”*

— Jason Landau Goodman,  
Pennsylvania Youth Congress



## #VoteSmartJustice

**THE DISTRICT ATTORNEY** is the most powerful person in the criminal justice system. That's why the ACLU of Pennsylvania engaged in voter education and turnout efforts for the first time in its history in May's primary election for district attorney in Philadelphia.

The Vote Smart Justice campaign emphasized our nonpartisan bona fides, and we did not endorse a candidate. Instead, our effort focused on educating

the nearly 12,000 ACLU members in Philadelphia who are registered to vote on key civil liberties issues, including cash bail, civil asset forfeiture, capital punishment, and transparency.

For two months, a team of 51 canvassers fanned out across Philadelphia, going door-to-door to talk with our members about these issues. Most of the canvassers have a criminal record or have a loved one with a crim-

inal record. In discussing the need for criminal justice reform, many shared their personal stories, and we received great feedback from our members about the effort.

The work in Philadelphia was the first in a series of voter education initiatives in district attorneys races that will be carried out around the country by national ACLU's Smart Justice Campaign.

# Mandatory Minimum Sentencing on Hold

**FOR TWO YEARS**, the commonwealth has been unable to enforce mandatory minimum sentences in criminal cases. The ACLU of Pennsylvania is fighting an effort to bring them back.

Two years ago, the Pennsylvania Supreme Court ruled that the commonwealth's process for implementing mandatory minimum sentences was unconstitutional, following a ruling from the United States Supreme Court.

The ACLU has been a long-time opponent of mandatories, as they disproportionately impact people of color, eliminate judicial discretion, and compound mass incarceration. Unfortunately, some members of the state House of Representatives are clinging to the idea that mandatories work. The House recently passed legislation that would reinstate most of this sentencing scheme and would fix the underlying constitutional problem of how Pennsylvania applies mandatory sentences.

That legislation is currently before the state Senate. To learn more, visit [aclupa.org/hb741](http://aclupa.org/hb741). ■

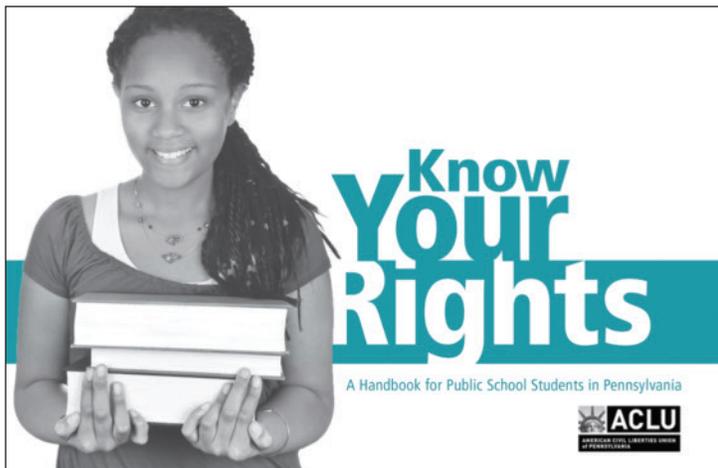


Legislative Director Elizabeth Randol testifies before the state Senate Judiciary Committee on the harms of mandatory minimum sentencing.

## Students Rights Handbook Updated for Today's Students

**THE ACLU OF PA** recently updated its popular publication *Know Your Rights: A Handbook for Public School Students in Pennsylvania*. The handbook addresses current issues affecting public and charter school students, including the right of free expression, religion in school, student use of the internet, student privacy, school security and policing, discipline, immigration, language access, students with disabilities, enrollment, student contact with the military, and sexual health and education.

Although written primarily for students, the handbook is useful to students, educators, parents and guardians, and journalists alike. For a PDF version and to learn how to order a printed copy, visit [aclupa.org/yourrights](http://aclupa.org/yourrights). ■



## Jailed for Being Too Poor

**IT SHOULD BE A YEAR OF CELEBRATION:** the 175th anniversary of Pennsylvania's ban on debtors' prisons. No longer are Pennsylvanians jailed for their poverty like William Penn was upon his return to England. No longer do the poor rot in jail for their debts.

Or do they? An ACLU of PA investigation has uncovered that thousands of Pennsylvanians are jailed each year because they cannot afford to pay their court fines, costs, and/or restitution in criminal cases. This is despite decisions from the Supreme Court of Pennsylvania and the United States Supreme Court dating back to the 1970s that were intended to prohibit the practice.

Why does this happen? Despite those court decisions and laws that prohibit jailing poor defendants, Pennsylvania law lacks clear guidelines for judges on how to determine what constitutes ability to pay. Some judges thoroughly assess a person's income and expenses, but others ask few questions and base decisions on arbitrary factors like whether the person smokes or has a cell phone or tattoos.

The ACLU of PA is working to change this by pushing for clear and fair standards through advocacy and litigation that will allow judges to more uniformly identify the indigent. Only then can we truly bar debtors' prisons in Pennsylvania. To learn more, visit [aclupa.org/debtorsprisons](http://aclupa.org/debtorsprisons). ■

# New Staff at the ACLU of PA

The ACLU of PA recently welcomed three new staff members.

In February, **Elizabeth Randol** joined ACLU-PA as our new legislative director. Liz brings a wide range of professional experience in higher education and nonprofits, as well as public and private sector positions. She spent the early part of her career at The University of Scranton teaching in the philosophy and political science departments while serving as the director of the campus women's center. For the past ten years, she has been managing political campaigns as well as advocacy initiatives, including election reform, high quality pre-k, and women's access to capital.



**Naiymah Sanchez** joined ACLU-PA in January as the transgender advocacy coordinator and organizer. She is a proud female of transgender experience and previously worked as the coordinator of the Trans-Health Information Project for five years, providing education and advocacy services for transgender individuals in Philadelphia. Naiymah has also worked to help the Philadelphia prison system become more PREA (Prison Rape Elimination Act) compliant. Part of Naiymah's initiative is to build coalitions to better serve transgender individuals and the injustice they face.

**Jaclynn Walker** joined ACLU-PA as the administrative assistant in the Pittsburgh office in March. A city native, Jackie returned to Pittsburgh in 2009 after receiving her B.A. in classical studies from Earlham College, in Richmond, Indiana. Prior to joining the ACLU of PA, she was the workshop coordinator for a Jewish service fellowship that focused on food justice and education equity and co-ran an organic meal delivery service. In her spare time, she enjoys developing new recipes and graphic design.



## Free Speech in the Streets



The ACLU of PA at Philadelphia Pride in June.



Protestors at the Women's March in Philadelphia in January.



# ACLU

AMERICAN CIVIL LIBERTIES UNION  
of PENNSYLVANIA

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## Showing Up for Civil Liberties

In recent months, ACLU-PA supporters around the state have gathered to learn more about the issues and to take action.



(Left to right) Professional football player Malcolm Jenkins, ACLU-PA Executive Director Reggie Shuford, and Hina Shamsi, director of the National Security Project at national ACLU, take questions from the audience at the annual meeting of ACLU-PA's Greater Philadelphia Chapter.



David Cole, legal director at national ACLU, addresses supporters at the annual meeting of ACLU-PA's Greater Pittsburgh Chapter.



More than 200 people attended the annual meeting of ACLU-PA's Central Susquehanna Chapter in Danville.