

WATCHDOG FOR DEMOCRACY: THE ACLU DEFENDS THE VOTE IN HISTORIC ELECTION

BY TAMMERLIN DRUMMOND

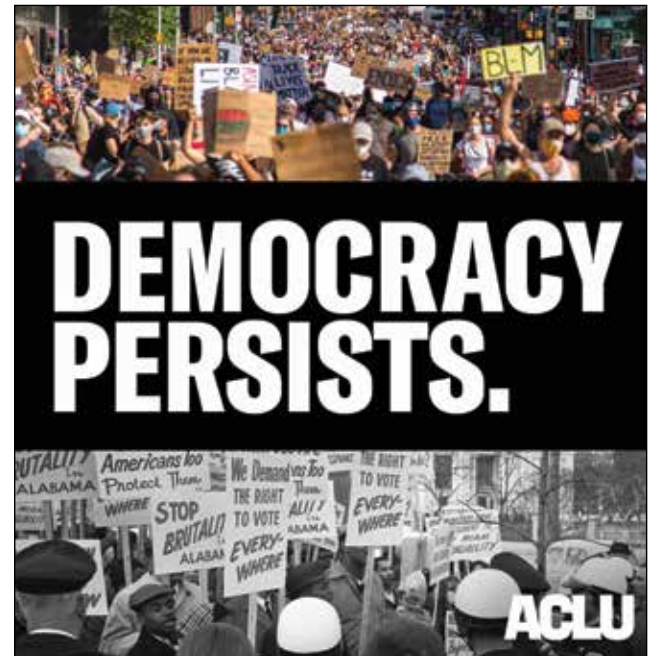
Despite a global coronavirus pandemic, baseless claims of election fraud, and widespread voter suppression, more Americans voted for president in November 2020 than ever before. Nearly 160 million of our fellow citizens made their voices heard in a remarkable demonstration of civic participation.

From the run-up to the Nov. 3 election to its aftermath, the ACLU played a key role safeguarding our democracy from two distinct threats. Donald Trump and his Republican supporters' relentless attempts to delegitimize the electoral process in an autocratic power grab. And a public health emergency that required Americans to quickly adapt to major voting changes.

Californians cast more ballots than any other state. A record 21 million people were registered

to vote—the highest number since 1940.

“The silver lining of Trump being in office is that a huge part of the electorate that had never voted before claimed their power and voted,” said Shilpi Agarwal, legal policy co-director at the ACLU of Northern California. “It is encouraging for our democracy that we accomplished this turnout on this massive scale in California and nationwide, during the pandemic, with this despot in the presidency trying to suppress the votes of people of color.”



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BIG VICTORIES FOR CRIMINAL JUSTICE REFORM IN CALIFORNIA

BY SARAH HOPKINS

John Windham remembers getting a voting registration form in prison, shortly before he was due to be released after 30 years. “I knew I didn’t have the right to vote in prison, but I thought that when I got home, I’d be good,” he said. “I just knew I’d be able to vote.” When he got out, he was devastated to learn that people like him who were out on parole had no right to cast a ballot. “It made me feel unaccepted, rejected from the community,” he says. “My people fought and died for their right to vote.”

Windham’s family was part of the Second Great Migration of African Americans in the mid-twentieth century. They left Mississippi and settled in Northern California, fleeing the racial persecution of the South. He remembers his mother and grandmother telling him that

they’d been beaten when they tried to vote in Mississippi; that they’d had crosses burnt on their lawns.

Windham views California’s practice of disenfranchising parolees as part of this arc of history.

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NOW AVAILABLE ONLINE! THE ACLU NEWS ARCHIVES 1936-2020

BY GIGI HARNEY

In collaboration with the California Historical Society, the ACLU of Northern California has completed an ambitious project to digitize every issue of the *ACLU News*, the ACLU NorCal's membership newsletter that's been published continuously since 1936. This entire history is now a keyboard click away, and can be viewed as visual files and searchable by text.

The ACLU NorCal's newsletter archives are valuable to scholars, researchers, journalists, students, civil rights advocates, and anyone looking to learn from this history.

"The articles, editorials, legal analysis, photos, and letters from early ACLU members, are an inspiring record of our long commitment to civil rights advocacy across California," said ACLU NorCal Executive Director Abdi Soltani. "The archives help us to see the trajectory of our advocacy."

The newsletter archives include 710 newsletter issues and 4002 pages of content to date. "We're incredibly lucky to have an entire, intact run of the newsletter," said California Historical Society Metadata and Systems Librarian Al Bersch. "From 1936 to present day, this publication provides coverage of legal cases and social movements that shaped California in the last century. Because it's keyword searchable, it also acts as an index to the collection of ACLU case files, also housed at CHS."

Anyone interested in learning about what the ACLU NorCal has worked on over the last 85 years can now begin their research at the click of a button.

Find the entire *ACLU News* archive, from 1936 to 2020, at www.aclunc.org/archives/CHS. 

Gigi Harney is the ACLU of Northern California's creative strategist and the ACLU News managing editor.



A snapshot of a few *ACLU News* issues across the decades. Find the full archives at www.aclunc.org/archives/CHS.

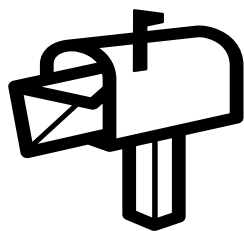
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IMPROVING THE STATE OF EDUCATION FOR NATIVE STUDENTS IN HUMBOLDT COUNTY

BY CARMEN KING

Many of California’s Native American students attend schools where they suffer disproportionate use of exclusionary discipline, where the only representation of Native people is often through stereotypical or racist mascots, and where the true history of Native people and the genocide they endured is all but erased from the curriculum. In October, the ACLU Foundation of Northern California released a report that revealed egregious and troubling education outcomes for Indigenous students in Humboldt County.

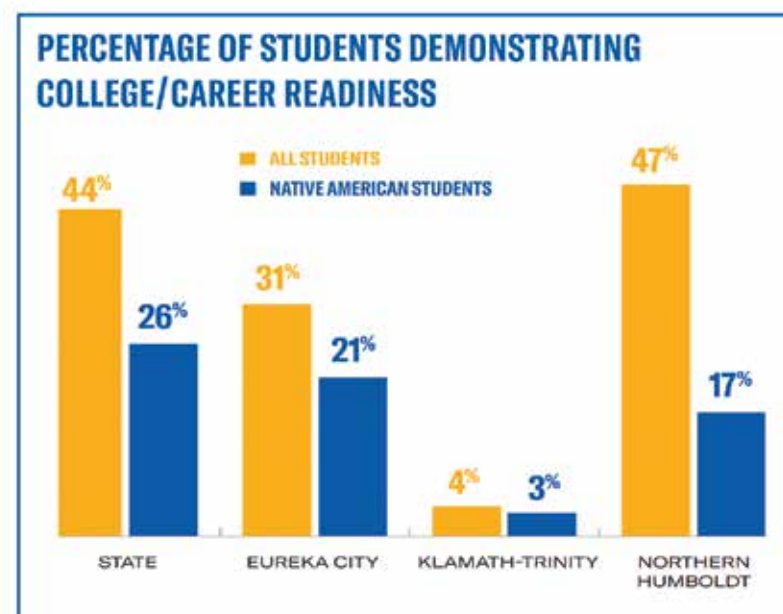
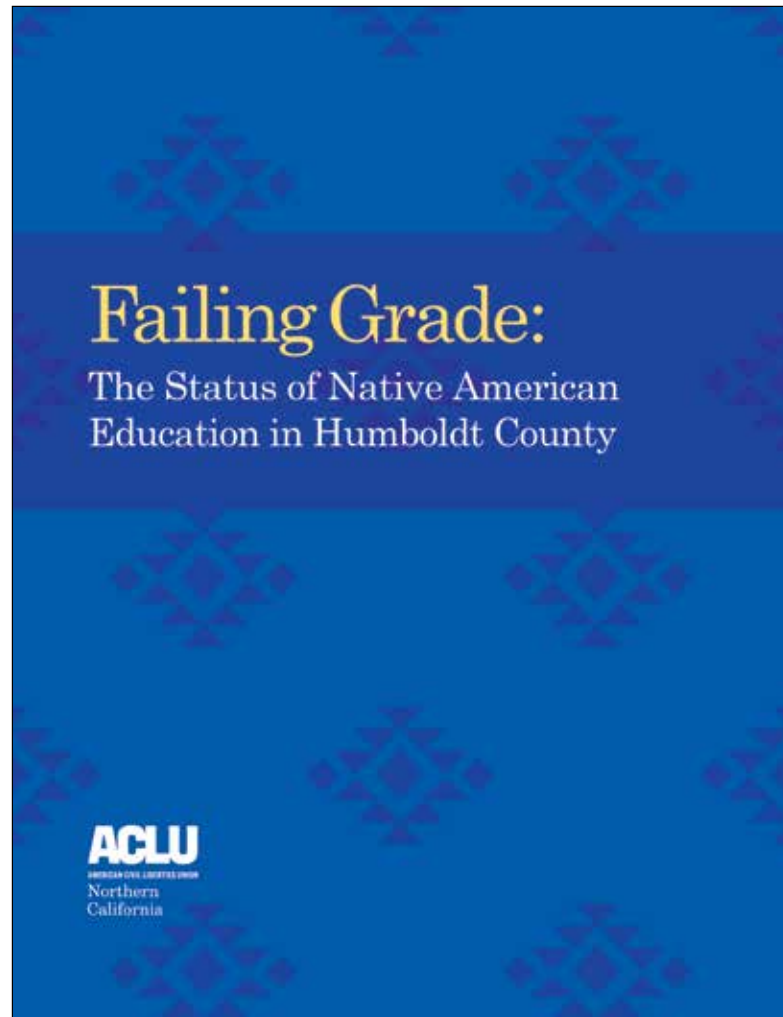
The report, *Failing Grade: The Status of Native American Education in Humboldt County*, found that Native students in Humboldt are suspended at nearly five times the state average for white students and experience chronic absenteeism at more than double the rate of all students across the state. Although roughly 85% of Native American students in Humboldt County graduated high school in the 2018-2019 school year, an overwhelming majority of Indigenous students in many school districts in the county did not meet California’s College and Career Readiness Indicator, a metric assessing whether graduates are prepared for success after graduation, and 90% of graduates did not meet entrance requirements for California universities.

These outcomes are part of a historical context. Tribes have always passed down their languages, cultures, and traditions to the next generation through Indigenous ways of learning. But with first contact between Indigenous and non-Indigenous peoples, traditional methods for conveying that knowledge were purposefully and violently disrupted.

Beginning in the 19th century, hundreds of thousands of Native children were kidnapped from their families and forced into boarding schools designed to erase their indigenous identity, including their culture and language. Children were severely abused at these institutions. The collective memory of these atrocities are fresh, as many students today are only two generations removed from the traumatic boarding school experience of their grandparents.

The end of the Boarding school era did not change the practice of public education being used as a tool to oppress and erase Native people, as the new report shows.

Following the release of the report, the Northern California Indian Development Council (NCIDC), an ACLU partner, brought together tribal leaders, community members, educators, and school administrators in a virtual roundtable to discuss the findings



Although roughly 85% of Native American students in Humboldt County graduated high school in the 2018-2019 school year, an overwhelming majority of Indigenous students in many school districts in the county did not meet California’s College and Career Readiness Indicator.

of the report and to articulate solutions and identify resources to address the crisis of under-education and de facto exclusion. The conversation, facilitated by Rain Marshall (Ihanktonwan Yankton Sioux), Indigenous Education Advocate for NCIDC, focused on adopting culturally relevant and responsive curriculum, hiring more school based mental health providers, and improving school climate to foster wellness and belonging.

Presenters included Dr. Cutcha Risling Baldy (Karuk, Hupa, Yurok), Chair of Native American Studies at Humboldt State University and a graduate of Humboldt County public schools. “I know it’s possible to create a curriculum that empowers Native youth,” Baldy said. “We know we have a curriculum that disempowers them, that takes their stories from them. We know we have these situations where they’re not feeling empowered to go into higher education. We know that once they get there, they’re confronted consistently with people who question their own stories. It’s time to change that. It’s time to start at the very basis of the structural curriculum that we teach our youth to tell them that their stories are important and matter, that their voices are important and matter.”

Carmen King is an associate communications strategist at the ACLU of Northern California.



LEGAL UPDATES

BY BRADY HIRSCH

SARAVIA V. SESSIONS

DUE PROCESS FOR IMMIGRANT YOUTH

When Trump took office, his administration began its full-scale assault on the rights of immigrants. One of many of these policies that the ACLU challenged was the use of unsubstantiated accusations of gang affiliation—like wearing clothing associated with El Salvador—as an excuse to snatch teenagers off the street or out of school, ship them across the county and hold them in jail-like facilities without notifying their parents or legal counsel.

In June 2017, the ACLU Foundation of Northern California sued then-Attorney General Jeff Sessions, alongside ICE and the Office of Refugee Resettlement (ORR), for violating the detained children’s due process rights. Soon after, 30 of the 35 kids held by ORR were released. This case was featured on PBS Frontline on February 13, 2018.

In September 2020, we reached a settlement that prevents this policy from being re-implemented and sets up stronger due process protections. The settlement, among other stipulations, a) stops ICE from detaining immigrant youth without specific evidence of gang affiliation; b) guarantees a full hearing within 10 days of arrest; and c) prevents the government from using flimsy gang-related charges to deny asylum, or other benefits that could lead to a green card.

COVID IN COURTS AND JAILS

Since the onset of the pandemic, the ACLU has intervened in courts and jails across California to preserve constitutional rights and save lives. Courts initially shut the public out, refusing to let even family members see the legal proceedings

of their loved ones. In jails, county sheriffs failed to take basic, humane steps like reducing unnecessary pretrial detention, releasing people who didn’t need to be detained for public safety, and distributing masks and tests to those inside. The ACLU Foundations of Northern and Southern California affiliates and partners sued in Alameda, Tulare, and Kern Counties.

In Alameda County, the suit settled, with testing being offered to all medically vulnerable people in its facilities. In Tulare County, we are asking the court to compel Sheriff Boudreaux—who refused to distribute masks until after our lawsuit—to release as many medically vulnerable people as possible to home confinement, provide regular testing, and set up sanitation and social distancing protocols. As of December, the sheriff has still failed to test 95% of those experiencing COVID symptoms.

In response to our lawsuit in Kern County, courts have set up remote audio access to court proceedings, serving as a model for the rest of the state.

ZEPEDA RIVAS V. JENNINGS

COVID AND IMMIGRANT DETENTION

During the course of the pandemic, ICE and the private GEO group that operates the Mesa Verde detention center in Bakersfield have shown a cold disregard for the lives of detainees. They have left people with COVID symptoms in crowded dorms, claimed that sleeping facilities allowed for social distancing when they did not, and refused to test people in order to hide the scale of the outbreak.

Consequentially, the virus surged throughout Mesa Verde, infecting over 50 percent of the immigrants detained, plus 33 percent of staff. In April, the ACLU and partners sued, arguing that the conditions of confinement at Mesa Verde violated the constitutional rights of those inside by exposing them to extreme risk of infection and death.

In response to ICE’s abject failure and misrepresentation, the federal judge overseeing the case ordered extraordinary relief: weekly rapid testing, no new intakes, and a dorm for COVID-positive detainees. In November, ICE came back to the court to have the restrictions lifted, arguing that they were no longer needed. The same judge issued a blistering order that rejected this request and imposed even stronger restrictions, calling ICE’s behavior “appalling.”

Although the case is ongoing, at this point we have forced ICE to reduce the number of people detained at Mesa Verde by 88 percent.

WILLIAMS V. SAN FRANCISCO


ILLEGAL SURVEILLANCE OF BLACK LIVES MATTER

During mass demonstrations following the murder of George Floyd, Breonna Taylor, and so many others at the hands of the police, the San Francisco Police Department illegally tapped into a sprawling private camera network to conduct live dragnet surveillance of protesters. SFPD did so in defiance of a 2019 city law that was backed by the ACLU and other civil rights organizations, which set up oversight and a public approval process to prevent unwarranted or discriminatory police surveillance.

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There's a distressing irony of SFPD responding to protests against police racism and violence with more abuse and overreach, and how it continues a legacy of state surveillance intended to undermine the work of Black organizers.

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Local Black Lives Matter activists, represented by the ACLU Foundation of Northern California and the Electronic Frontier Foundation, sued the city of San Francisco for illegally surveilling them. The suit articulates the distressing irony of SFPD responding to protests against police racism and violence with more abuse and overreach, and how it continues a legacy of state surveillance intended to undermine the work of Black organizers. The lawsuit calls on the court to order San Francisco to enforce the Surveillance Technology Ordinance, so that no future activists are unlawfully spied on for exercising their constitutional right to protest. 

Brady Hirsch is an associate communications strategist at the ACLU of Northern California



In 4 months, COVID-19 has killed 3x more people in CA prisons than the last 43 years of the death penalty

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CALIFORNIA DITCHES HARMFUL CRIMINAL SYSTEM FEES, ADVANCING ECONOMIC JUSTICE

BY JANINE SHIMOMURA

In September, Governor Newsom signed AB 1869, making California the first state in the country to repeal many of the onerous administrative fees in the criminal system. This bill, which was an ACLU priority in 2020, was a significant win for economic justice. The victory was possible because of a strong partnership between the bill's author Senator Holly Mitchell and the Debt Free Justice California Coalition, a diverse statewide coalition led by system-impacted people and other advocates that came together in 2018 with the objective to eliminate those criminal system fees.

“AB 1869 is a significant first step, eliminating over 16 billion dollars in court ordered debt and bringing into sharper focus the ways in which the criminal legal system extracts wealth from Black and Brown communities and exacerbates economic insecurity,” said Brandon Greene, Racial and Economic Justice Director at the ACLU of Northern California. “These harms cannot be ameliorated by simply tinkering around the edges, instead these predatory systems must be eliminated.”

Before the law was passed, California allowed counties to charge fees related to legal representation, probation, and incarceration. The average system-involved Californian has over \$5,000 in unpaid administrative fees ranging from booking fees to electronic monitoring fees. These fines and fees were created to generate revenue and gained popularity during the height of the Great Recession as many local jurisdictions created new fees to stabilize their operating budgets. These fees burden low-income people and create additional obstacles to their recovery. This approach has also proved ineffective. Most people who are charged these fees are unable to pay and counties were spending more to collect fees than the revenue generated.

The Debt Free Justice California work started at the county level with Alameda and San Francisco counties being among the first in the state to eliminate criminal system fees and fines in 2018. In 2019, Contra Costa County approved a moratorium on system fee collection. The coalition notched another significant victory earlier this year when the Los Angeles County Board of Supervisors voted to eliminate many system fees and forgive fee-related debt. Those local efforts had a massive impact, as over 30 percent of California's inmates and probationers reside in those counties.

AB 1869, which was originally introduced as SB 144 in 2019, faced serious challenges throughout the legislative session.

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–Brandon Greene, ACLU NorCal racial and economic justice director

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Local jurisdictions were concerned about the loss of revenue amid the COVID-19 economic downturn. However, it was clear that the financial security and wellbeing of low-income Californians impacted by the fees far outweighed the miniscule impact the legislation might have on local government budgets. Ultimately, with the leadership of Senator Mitchell and the Debt Free Justice California Coalition, a deal was brokered through the budget negotiation process. In August, AB 1869 passed 59-17 in the Assembly and 30-7 in the Senate.

“We joined together as a coalition to think bigger, broader, and more critically about how anti-Blackness, xenophobia, and sexism underpin the rules of our economy, the criminal system and policing,” said Jhumpa Bhattacharya, Vice President of the Insight Center for Community and Economic Development and a member of Debt Free Justice California. “The imposition of criminal fees was not simply a matter of good or bad fiscal policy, but a reflection of multiple systems of entrenched racism that

have led to targeted policing and over-incarceration of Black and Brown communities, consequently widening racial and gender wealth inequality.”

AB 1869 helps strengthen economic security for system-impacted individuals and their families, allowing them to devote their resources towards critical needs. This is just the start for the coalition. COVID-19 has continued to magnify economic harms for low-income communities of color, making it even more urgent to address the remaining fees and fines that AB 1869 did not eliminate. To stay updated on the coalition's work, visit <https://ebclc.org/cadebtjustice/about/>. 

Janine Shimomura is a communications strategist at the ACLU of California's Center for Advocacy & Policy.

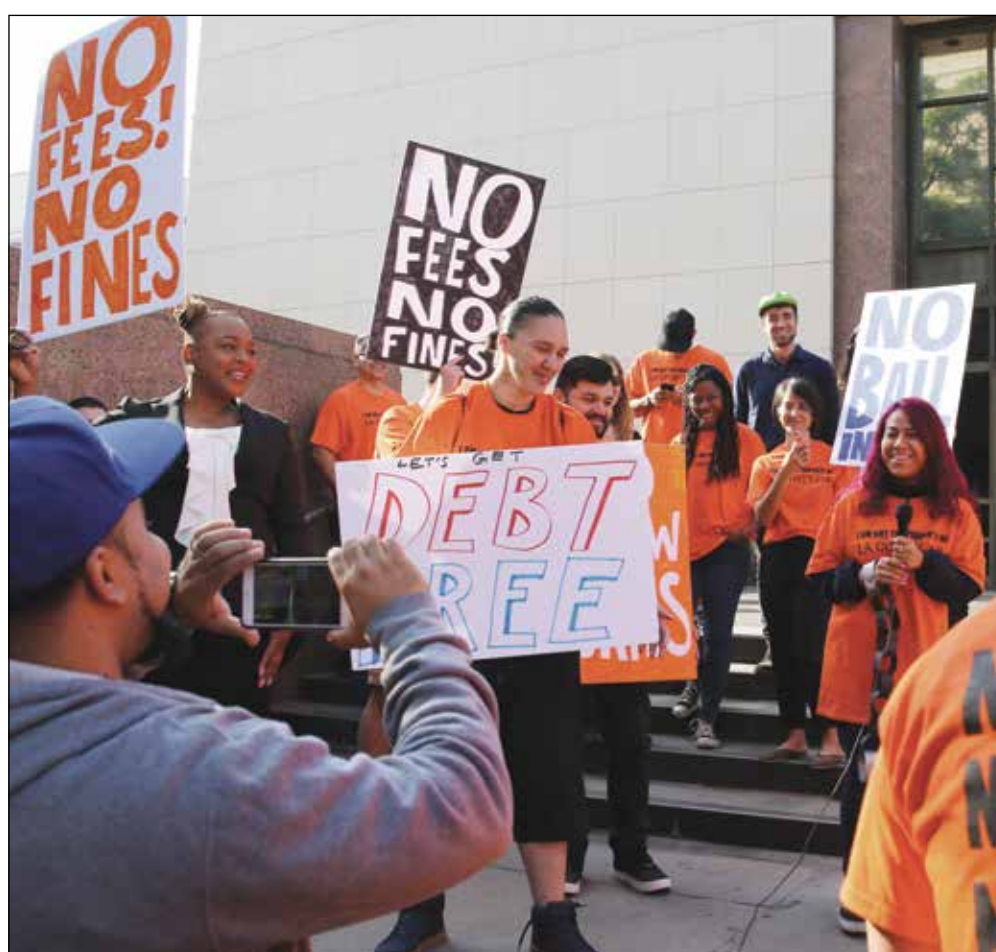


PHOTO BY DEVON PORTER; COURTESY OF ACLU SOCAL.

The Debt Free Coalition's work has been going on for years. Shown here, a Los Angeles County Board of Supervisors' fines & fees clinic and convening from 2018.

ACLU DEFENDS THE VOTE IN HISTORIC ELECTION CONTINUED FROM PAGE 1

Yet at the same time, millions of Americans refused to accept the fact that Trump lost the election. Two weeks before Joe Biden's inauguration, a mob of white supremacists incited by the defeated president, stormed the U.S. Capitol. The violent attempt to overturn the election results was a stark reminder that we must remain ever vigilant to protect our democratic institutions. A strong democracy requires the full participation of everyone eligible to vote.

The welcome surge in the number of voters in the November 2020 elections can be attributed in large part to years of painstaking work by the ACLU and our voting rights allies. Through our litigation and advocacy, we've made huge strides expanding voting access to people who have been historically disenfranchised.

CALIFORNIA VOTING RIGHTS GAINS

In 2018, the ACLU of Northern California and our legal partners won a settlement against the DMV that allowed millions of Californians to use the renewal process for their driver's license or state ID, to update their voter registration. This has so far resulted in 12 million new and updated registrations. In 2019, we co-sponsored a state law that expanded Same Day Registration to every polling site. This was the first presidential election where Same Day Registration and voting was in effect. We further prevailed in a lawsuit that requires state elections officials

to notify a voter before rejecting their mail-in ballot because the signature didn't match the one on file.

Another legal victory in 2019 expanded voter registration to more people with disabilities and those receiving public assistance. We also won a suit that required state elections officials to provide sample ballots and other voting assistance to speakers of 16 additional Asian languages, impacting 56,000 people.

"These are the victories that allowed us to be where we are in California," said Angélica Salceda, democracy and civic engagement director at the ACLU of Northern California. "Then when the pandemic hit, we built upon this work and looked at other methods to make sure that people didn't have to choose between their health and their constitutional right to vote."

PROTECTING THE VOTE DURING COVID

In March 2020, shelter-in-place orders were enacted. Masks and social distancing became the new normal as the coronavirus began its deadly march across the United States. With the presidential election just eight months away, the ACLU and our affiliates across the country moved quickly to react to these new challenges and uncertainty about how elections would be administered.

We predicted there would be a major reduction in voting locations, creating a potential electoral crisis when most people

have traditionally voted in person.

The ACLU called on all states to automatically send mail-in-ballots to every voter. And to create a 14-day minimum early voting period. We also stressed the need for an adequate number of in-person voting locations, mostly for those who can't vote by mail because they need language or other assistance. Or are unsheltered and have no fixed address.

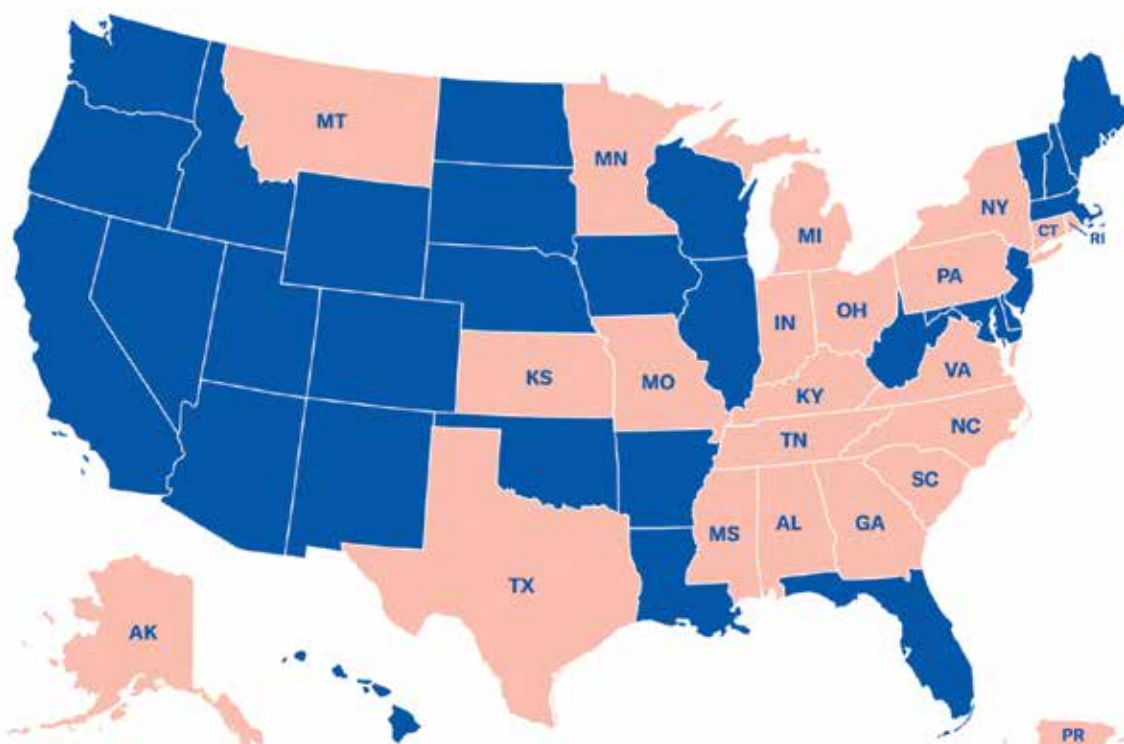
As a result of advocacy by the ACLU of Northern California and our partners, Gov. Gavin Newsom signed an executive order requiring elections officials to automatically send mail-in ballots to all eligible voters during the pandemic. The legislature later passed a law requiring the same – nullifying a misguided lawsuit filed by Republican party officials seeking to overturn Newsom's order, falsely claiming that mail-in-ballots invited fraud.

Our voting rights, organizing, and communications teams joined forces to educate the public about voting during COVID-19. The ACLU Foundation of Northern California created "Know Your Rights" guides that informed voters of their right to vote during the pandemic. We successfully pressed for secure ballot drop boxes and curbside voting. Meanwhile, our voting rights attorneys worked with county elections officials to make sure they were prepared to receive and properly tally the anticipated deluge of mail-in-ballots.

Outside California however, many states

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STATES WHERE THE ACLU FILED VOTING RIGHTS CASES IN 2020



See the list of ACLU voting rights cases at WWW.ACLU.ORG/VOTER/NATIONWIDE

had onerous restrictions limiting who could vote by mail. Officials in a number of states waged anti-democratic attacks on mail-in-voting to depress turnout.

The ACLU scored 26 victories in 20 states to expand the vote. We filed lawsuits against Georgia, Michigan, Virginia, and Missouri to challenge burdensome, unsafe, or financial barriers to mail-in voting. In Florida, we fought to uphold a groundbreaking constitutional amendment that restored voting rights to 775,000 people who had been released from prison after serving felony sentences. The scope of that amendment's impact was unfortunately curtailed by the legislature which effectively passed a poll tax requiring formerly incarcerated people to pay all fines and fees before they could vote. A Republican majority court of appeals upheld this unconstitutional action. Despite this setback, the ACLU will continue to fight for the voting rights of formerly incarcerated people in Florida and across the country.

ACLU ELECTION PROTECTION WORK

Once early voting got under way, the national ACLU and our affiliates across the country worked with a network of election protection lawyers and volunteers on the ground to make sure every eligible citizen could vote, and that every vote was counted.

The ACLU of Northern California and its partners held counties accountable by monitoring problems such as long lines, a lack of sample ballots for non-English speakers, and computer glitches. We were often able to work with local registrars to find solutions.

With the help of our partners, we uncovered several Election Day problems in Alameda County. In one instance, poll

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“The silver lining of Trump being in office is that a huge part of the electorate that had never voted before CLAIMED THEIR POWER AND VOTED.”
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–Shilpi Agarwal, ACLU NorCal legal policy co-director

workers at the Mills College voting location mistakenly instructed some voters who used ballot-marking devices that the print-out they received was a receipt they could take home when in fact it was their actual ballot. Due to the flawed instructions, over 100 voters took their actual ballots home. The ACLU and our partners notified the registrar that county officials were legally obligated to contact those voters and count their ballots. As a result of our advocacy, the Alameda Registrar notified potentially impacted voters and requested that they return their ballots to the elections office in order for the ballots to be counted.

On election day, our voting rights and communication teams worked together to get critical information out to voters in real time, urging them to stay in line where queues were long. We countered the barrage of rumors that could have stopped people from voting with factual information.

We developed contingency plans for emergency-day litigation to respond to long

lines, voter intimidation, and other Election Day issues, but fortunately, they weren't necessary.

WORKING TOWARD A MORE PERFECT UNION


For the past four years, the ACLU has fought the Trump Administration's non-stop assault on our civil rights and liberties.

Millions of Americans came together to end this dark chapter of our nation's history. On January 20, President-elect Joe Biden and Vice-President Elect Kamala Harris, took office.

We're optimistic that the American people will call on the Biden Administration to move swiftly to repair the harm caused by Trump and craft policies that benefit all Americans, not just the wealthy and connected.

Yet the fact is, no matter who is in the White House, our role at the ACLU remains the same as it has been for the last 100 years: to hold our leaders and institutions accountable. We will apply this principle to the Biden Administration, as we have every past administration.

Although Trump's toxic presidency has mercifully ended, the devastation of his policies and the continuing effect on our politics continues – and we cannot afford to become complacent. We all must remain engaged. The fact that Trump and his supporters tried to illegally disenfranchise millions of voters all the way up to Inauguration Day, is a reminder of our responsibility to protect our democracy.

The ACLU will persist in our efforts to build a more perfect union where “we the people” truly means all of us. 

Tammerlin Drummond is a communications strategist at the ACLU of Northern California.



ACLU of Northern California staff spreading the word to VOTE!

BIG VICTORIES FOR CRIMINAL JUSTICE REFORM IN CALIFORNIA

CONTINUED FROM PAGE 1

THE PASSAGE OF PROPOSITION 17

Seventy-five percent of people coming home from prison in California are people of color, reflecting the disproportionate population of people of color behind bars. (According to the most recently available data, Black people make up approximately 28% of the prison population but are only 6% of the state's population.)

This year, through the passage of Proposition 17, Californians chose to enfranchise tens of thousands of people like Windham. Prop. 17 amended the California Constitution so that people on parole have the right to vote, affecting about 50,000 of our community members—most of them people of color.

Windham and others impacted by incarceration led the Prop. 17 campaign, in partnership with the community organization Initiate Justice. The ACLU also played a key role supporting the campaign from start to finish.

Now that he has witnessed the passage of Prop. 17, Windham says he feels more included in society, and he hopes that others do too: "I feel like I have a voice that I can use. Returning citizens often suffer in silence, feeling like there's no place for them in the outside world. They feel forced to live underground. The more civically engaged you are, the more invested you are in your community." Californians heartily agreed: there were more "Yes" votes cast for Prop. 17 than any other measure on the November ballot.

THE REJECTION OF PROPOSITION 20 AND THE ELECTION OF GEORGE GASCÓN

Windham was incarcerated in the 1990s—the boom years for California's prison industrial complex. In that decade alone, the state opened 12 new prisons and passed draconian sentencing measures that swelled the prison population.

Over the last several years, Californians have voted for criminal justice reforms geared toward rolling back the "tough-on-crime" measures of that decade, including through the passage of Prop. 47 (reducing penalties for certain drug and theft offenses) and Prop. 57 (allowing some incarcerated people an earlier chance at release).

This year, tough-on-crime politicians and their supporters placed Prop. 20 on the ballot, which would have curtailed the



John Windham (pictured with his wife, Melissa) received a voting registration form in prison, shortly before he was due to be released after 30 years. When he got out, he was devastated to learn that people like him who were out on parole had no right to cast a ballot. The passage of Proposition 17 changes that, enfranchising tens of thousands of people.

reforms of Props. 47 and 57, among others. But Californian voters roundly rejected Prop. 20, with 67% voting "No" and maintaining the forward momentum of criminal justice reform.

DA accountability is a cornerstone of ACLU's criminal justice reform strategy in California. In November, we witnessed the election of the reform-minded George Gascón as district attorney of Los Angeles County. This means that one of the most powerful prosecutor's offices in the state and the nation will be led by a DA who has pledged to use his powers of office to decrease incarceration and increase police accountability.

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"Instead of investing in the diverse services that communities need to thrive, like mental health services or homelessness resources, all of those services have been collapsed into one unit: the police."
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—Allyssa Victory, ACLU NorCal
police practices and criminal justice attorney
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Taken together, these election results signal a turn away from the mindset of the 1990s, when mass incarceration and policing were widely equated with the preservation of community safety.

COMMUNITY-INITIATED ACCOUNTABILITY

The Movement for Black Lives has been working to motivate the public to question that very equation. Rather than focusing on how to make prisons and police "work better" through piecemeal reforms, the Movement asks us to question the scale, power, and resources of the police; to examine the capacity of the police to bring death and violence to communities of color, often with impunity; and to imagine how we might address social problems other than through policing and incarceration.

"Over time, we've seen an intentional shifting of resources to law enforcement," says Allyssa Victory (Villanueva), Police Practices and Criminal Justice Attorney at ACLU NorCal. "Instead of investing in the diverse services that communities need to thrive, like mental health services or homelessness resources, all of those

services have been collapsed into one unit: the police. They have become our go-to for public safety, when we know that policing isn't the answer to our social problems. This is why policing and law enforcement affect all of us."

Victory notes that, despite the oversized power and resources of policing institutions, and despite the fact that they are publicly funded, they often operate with little public oversight (if any). This is why she worked in coalition with community partners in 2020 to pass police accountability measures in Oakland, Berkeley, and Sonoma County, which will strengthen the oversight capabilities of the pre-existing police commissions in those communities. (These commissions, Victory explains, are civilian oversight boards that provide an extra layer of accountability to police departments and work to shape what policing looks like in their communities.)

Among the coalition's demands were the right to hire independent legal counsel for the Oakland Police Commission, outside of the city

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CRIMINALIZING PREGNANCY OUTCOMES IS UNCONSTITUTIONAL AND CRUEL

BY JENNIFER CHOU

In September 2019, Chelsea Becker delivered a stillborn baby at Adventist Hospital in Hanford, a conservative, rural city in the Central Valley. What should have been a response based in empathy for Ms. Becker's loss, turned into a legal nightmare. The medical professionals at Adventist didn't offer support—they called the police.

The Kings County district attorney's office charged Ms. Becker, then 25, with murder under the theory that Ms. Becker's prior use of methamphetamines resulted in her stillbirth. As a result, Ms. Becker has been held pre-trial in Kings County Jail for almost a year, unable to pay the enormous \$2 million bail set in her case.

Kings County's prosecution of Ms. Becker gets a number of things wrong—not least of them, that the California law in question was explicitly designed to protect women from being prosecuted for the outcomes of their pregnancy, including abortions, miscarriages, and stillbirths.

And yet, in just the last two years, Kings County has charged two women with murder for delivering stillbirths. Under facts nearly identical to Chelsea Becker's, in 2018, Kings County DA Keith Fagundes also prosecuted Adora Perez for her pregnancy loss. Unfortunately, Ms. Perez received erroneous legal counsel, and pled guilty to manslaughter for the loss of her own fetus—a crime that doesn't even exist. Ms. Perez is now serving an 11-year sentence in California state prison.

Kings County's current crusade to police and control pregnant women echoes earlier, misguided attempts to address public health issues through criminalization. In the 1990s, the ACLU successfully represented several women in similar criminal cases who were charged with murder when they had stillbirths after alleged drug use. The courts in those cases correctly concluded that women could not be criminally charged for their pregnancy outcomes.

This year, we filed amicus briefs in both Ms. Becker and Ms. Perez's cases to highlight the grave constitutional due process and privacy concerns they raise. Ms. Becker is being

represented by a team led by our partners at National Advocates for Pregnant Women. And Ms. Perez is being represented pro bono by ACLU Legal Committee member, Mary McNamara, and her colleagues at Swanson & McNamara as well as the Law Office of C. Matthew Missakian, in an attempt to reopen her appeal.

The constitutional implications of giving prosecutors discretion to investigate and charge women for any activity that poses a potential risk to a pregnancy are disturbing. If DA Fagundes got his way, women could potentially be prosecuted for a breathtakingly expansive range of behavior including jogging, drinking a glass of wine, taking prescription drugs, working a stressful or physically demanding job, or exceeding the speed limit while driving.

Women should not have to fear that every pregnancy could be closely scrutinized and potentially weaponized against them.


Stillbirths and miscarriages are sadly common occurrences, and about 16% of all pregnancies do not result in a live birth. There can be many contributing risk factors to these outcomes, and in fact science does not support a causal link between drug use and pregnancy loss. People in underserved and marginalized communities, like many communities of color, are the most likely to experience pregnancy complications, and therefore most likely to be impacted by a law that punishes pregnancy outcomes.

Nonetheless, DA Fagundes not only remains defiant in his position, but goes out of his way to treat Ms. Becker with contempt. In a recent brief, the prosecution dedicates pages to painstakingly painting a dehumanizing picture of her struggle with substance use disorder, even going so far as to argue that Ms. Becker's outrageous \$2 million bail is justified—to

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Women should not have to fear that every pregnancy could be closely scrutinized and potentially weaponized against them.
.....

prevent against “the prospect of her becoming impregnated.”

The disturbing revival of policing and criminalizing pregnancy outcomes should alarm all Californians. Kings County is not an island unto itself. Although California prides itself on being a leader in reproductive justice, we have much work to do. We still have many systems that put punitive measure first, with the harm falling hardest on Black and Brown families. The impulse to criminalize has spread to too many of our institutions. It is not a coincidence, for example, that both Ms. Becker and Ms. Perez's stillbirths were reported to the police by medical staff. We need to shift our focus and resources, investing in systems of care that prevent tragedies instead of prosecuting them. Let's start by freeing Chelsea Becker and Adora Perez.

For more information, including the latest, about these cases, visit: www.aclunc.org/criminalizing-pregnancy-loss. 

Jennifer Chou is a reproductive justice and gender equity attorney at the ACLU Foundation of Northern California.

CRIMINAL JUSTICE REFORM CONTINUED FROM PREVIOUS PAGE


attorney's office; the strengthening of oversight and investigation procedures for the Sonoma County Sheriff; and a new Police Accountability Board for the City of Berkeley, with expanded power to investigate allegations of misconduct. Each measure was approved for the ballot in 2020, and each passed.

Victory emphasizes that these commissions are community-driven, and much of those efforts have been supported and led by Black

organizers and leaders: “They are the people who are impacted most by disparate policing and racial injustice in the criminal justice system, and they are the people systematically excluded from political power.” The Berkeley measure, for example, was supported by Pastor McBride from The Way Christian Center, the NAACP, and the community organization Heathy Black Families.

This type of leadership, Victory says, holds the

power to shift the public's expectations of what is possible for policing in our communities.

It is another demonstration of the power that ordinary people hold, especially at the state and local levels, to make the political changes necessary to improve the conditions of life for their fellow community members. 

Sarah Hopkins is a communications strategist at the ACLU of Northern California.

CELEBRATING CHANGEMAKERS

BY NASREEN JOHNSON

ACLU NORCAL'S 2020 BILL OF RIGHTS HONOREES

Each year the ACLU of Northern California hosts Bill of Rights Day to honor leaders fighting for civil rights and civil liberties. This year, we gathered virtually to acknowledge torchbearers, celebrate victories, and regroup for 2021.



Taina Vargas, the 2020 ACLU NorCal Chief Justice Earl Warren Civil Liberties Award recipient.

The ACLU NorCal honored Taina Vargas with the Chief Justice Earl Warren Civil Liberties Award for her work in collaboration with the ACLU and other organizations to pass Proposition 17, which restored voting rights to people on parole in California. This award is given each year to recognize lifetime achievement in advancing civil liberties.

Vargas is the founder and executive director of Initiate Justice. Her work on civil rights began during a visit to a family member who was incarcerated. She recalls looking at all the people in the room visiting their loved ones and thinking, “What if everybody in this room had a relationship with their senator and assembly member? What if they wrote letters of support for bills that would impact them?”

Four years after founding Initiate Justice, Vargas is filled with pride by seeing the number of people in prison engaged in work to become enfranchised after serving their sentences. “We got thousands of legislative letters of support for ACA 6 (which became Prop 17) from inside prison,” Vargas explains. “We trained dozens of formerly incarcerated folks and their loved ones on how to communicate with their legislators. Now they talk to their legislators regularly and have built relationships with them.”

Vargas draws her motivation from the people impacted by the work. She describes watching Prop 17 pass on Election Night, “one of our staff members got very emotional. He’s currently on parole and went to prison when he was 17 and served 25 years.” She continues, “Now, in his early forties, he will be able to register to vote for the first time.”

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“What if everybody in this room had a relationship with their senator and assembly member?”
-Taina Vargas
.....

Melissa Hernandez received the Lola Hanzel Courageous Advocacy Award for her significant contribution to the passage of a landmark ordinance calling for the immediate closure of an SF County jail. She is a criminal law attorney, leads the ACLU of Northern California San Francisco Chapter, and is a founding member of the No New SF Jails Coalition. This award is given each year for outstanding work by an ACLU Nor Cal volunteer.

Hernandez’s family, like so many other families, had issues with the criminal justice system. She describes the anxiety her family experienced whenever they interacted with the police, who are supposed to protect and serve. She had always wanted to be a lawyer because she believed she could help people having similar experiences.

The No New SF Jails Coalition launched a campaign to close a San Francisco jail as part



Melissa Hernandez, the 2020 ACLU NorCal Lola Hanzel Courageous Advocacy Award recipient.

of a larger plan to dismantle criminalization systems and advocate for solutions to genuinely make communities safer. When the ACLU SF Chapter got involved in the campaign to close the jail, there was a learning curve because they hadn’t previously been engaged in what they considered to be abolition work. Through difficult one on one conversations about beliefs and blindspots, the chapter members worked together to address concerns, present information, and learn from each other. Hernandez appreciated building a shared understanding with the group.

“We’ve been conditioned to believe that jailing, incarceration, and policing keep us safe,” Hernandez says. But she asks people to think critically about what actually makes them feel safe. She points to the impact made in communities that invest in schools, healthcare, and meeting people’s basic needs and adds, “I feel safer knowing that people aren’t in desperate situations.”




Volunteer Tracie Ehrlich, whose phonecall reached a voter who didn't realize he was eligible to vote.

ACLU VOLUNTEER'S PHONE CALL RESCUES BALLOT FROM RECYCLE BIN

Tracie Ehrlich is a law student at Santa Clara University and a member of the ACLU Santa Clara Law Chapter.

On Election Day, Tracy Ehrlich was phone banking from her living room to get out the vote by connecting with California voters, educating them about propositions, and encouraging them to cast their ballots. Calls were going unanswered more frequently as the day progressed, but she pressed on.

Ehrlich finally reached a voter in Oakland who told her that he received a ballot in the mail but was planning on recycling it. When asked why, he said he’d been convicted of a felony. He didn’t know he was eligible to vote even though he was off parole. Once Ehrlich informed him that he could now vote, he was happily surprised and would return his ballot and thus cast his vote after work that day.

Volunteers like Ehrlich helped turn out voters in record numbers in 2020. Persistence is a crucial part of our voter engagement work. “I was able to give him information to use rights he did not know he had,” Ehrlich said. “This work is so important, and now he knows he can vote going forward.” 

Nasreen Johnson is a communications strategist at the ACLU of Northern California.

DONOR PROFILE: LINDA GEBROE

Supporter Linda Gebroe, a retired communications professional, recently shared her thoughts about the ACLU with Ruth Herring and Ziba Marashi, members of our development team.



THANK YOU FOR YOUR SUPPORT OF THE ACLU SINCE 2001. WHAT DREW YOU TO THE ORGANIZATION AT THAT TIME?

I'd certainly heard of the ACLU, and I was interested in and supportive of the organization's work. I also loved that its reach was national, regional, and local. My good friend Cheri Bryant, the development director at that time, would tell me about all the great things that were going on. She thought I would be a good fit with the ACLU, and I wrote some annual reports for the organization starting in 2004. In that role, I got a real insider's look. I was very happy that what I was learning as I talked in depth to the organization's leaders reinforced the positive view I'd held as an outsider.

WHAT'S IMPORTANT TO YOU ABOUT THE ACLU?

Some of the work the ACLU does benefits me directly as a lesbian. Obviously, when I was first working with them, I didn't have the right to marry or to be openly lesbian in the military if I wanted; those protections were not in place. I feel as though the ACLU has fought for me personally. And then there are groups the ACLU fights for that I'm not part of, but it breaks my heart to see the inequality. Certainly, racial justice and immigrants' rights are very important to me. Pretty much anything the ACLU has done, I have supported. The ACLU has the lawyers and all the people who know how to get it done; I've got some money that I can give, so in that way, we have a partnership.

HOW HAS YOUR RELATIONSHIP WITH THE ACLU CHANGED OVER TIME?

I've gone from being an interested spectator, and later a reporter and journalist exploring issues

mainstream organizations, but their bigger donors don't necessarily give to the causes I care about. I feel that our community needs to participate. My parents taught me from an early age that philanthropy is what we do. It was very important to them, and to me, from an early age. I think it's incumbent upon me, and anyone who can, to support organizations that share our priorities.


WHAT RESONATES MOST WITH YOU NOW?

So much of what the ACLU does resonates. . . pursuing justice is an age-old issue. To me, it feels like the administration of the past four years was one big disaster. I think one reason the Black Lives Matter movement came to the fore was that we'd reached a tipping point. So many people were on edge and feeling threatened. A lot of communities came together in a way that was great to see, and I hope that lasts.

The ACLU backing all those causes really helps the intersectional needs that flow through so many of us. This year has been a teacher on many levels.

One thing that gives me hope is

the neighborliness, which is like an energy flowing among us—it's priceless. I have faith in humanity. When I get depressed, I sit down and write checks to organizations because it lifts my spirits. I am so heartened by seeing how many organizations and people there are that are so dedicated to raising all of us up.

Another thing that resonates for me is the humanity of the ACLU staff and their deep commitment to the mission. Their dedication not only strengthens the organization, it gives me hope, especially in these times where so much divisiveness and inequality are being perpetrated. I think that's been true since the ACLU was founded and is as relevant and important as ever. 

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It gives me such great pleasure to be able to give. I think it's incumbent upon me, and anyone who can, to support organizations that share our priorities.
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in-depth, to enjoying retirement and life more as a donor. It gives me such great pleasure to be able to give. Furthermore, sometimes I support

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A LETTER FROM ACLU OF NORTHERN CALIFORNIA EXECUTIVE DIRECTOR ABDI SOLTANI

To our beloved ACLU community, I write this letter to express my deep gratitude to you for your support over these four years of the Trump presidency, and as a call to action for what lies ahead in the Biden-Harris administration. Four years, and 400 ACLU lawsuits later, Donald Trump is no longer President of the United States. Your support enabled the ACLU to challenge his policies in the courts through lawsuits and in communities through unprecedented levels of civic engagement. With millions of other Americans who stood together, you have been the first and last line of defense of this democracy.

THE AFTERMATH OF THE TRUMP PRESIDENCY

The damage of the Trump presidency will take many years—and a lot of hard work to undo. In addition to the lasting harm on people’s lives, the policies, practices, and the ideology behind those policies take deep root. They take deep root in sprawling government agencies, such as border and immigration enforcement. And they take deep root in the hearts and minds of many Americans, such as the idea that the election was stolen through widespread fraud. These ideas manifest not just in one insurrection against democracy at the Capitol, but will manifest in state houses through voter suppression laws to combat fraud that does not exist.

THE LEGACY OF WHITE SUPREMACY

The other legacy of the Trump presidency is that it laid bare the *depth and breadth of white supremacy* in the United States. After eight years of the Obama presidency, and the myth of a post-racial America, white supremacy was on full display. No symbol of that is more poignant to me than the Confederate flag being carried through the U.S. capitol in January 2021, in a way that never happened during the Civil War in the 1860s. The other legacy of this era is the *unprecedented civic engagement*—through protests at the women’s march the day after Trump took office, rallies at airports on the day of the Muslim Ban, mass movements for Black Lives Matter, and unprecedented voter mobilization in every state, including Georgia in the final hour.

If we can carry that understanding of the depth of the challenge we are fighting coupled with sustained civic participation, the next four—and more—years can be a harbinger of a period of great change and forward progress.

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As we step together into the future that stands before us, and as we begin the process of repair, poet Amanda Gorman reminds us that “We will not march back to what was, but move to what shall be.”
.....

HOPE FOR THE FUTURE

Which brings me to what we must do next. Amanda Gorman said it best at the Inauguration in her poem “The Hill We Climb Next”.

“Somehow, we’ve weathered and witnessed a nation that isn’t broken, but simply unfinished...”

And so, we lift our gazes not to what stands between us, but what stands before us...

Because being American is more than a pride we inherit; it’s the past we step into and how we repair it.”

As we step together into the future that stands before us, and as we begin the process of repair, she reminds us that “We will not march back to what was, but move to what shall be.”

The repair began on Day 1 with a slew of executive orders by the Biden Administration, including the repeal of the Muslim Ban. The repair also requires full investigations and accountability for the insurrection at the Capitol.



PHOTO BY BETHANIE HINES

ACLU of Northern California
Executive Director Abdi Soltani

THE ACLU'S PLAN

Beyond repair, reaching to “what shall be” requires a bold policy agenda. The ACLU has released its priorities for the first 100 Days in “Our Asks: Biden’s Civil Liberties and Civil Rights To-Do List” at aclu.org. These span the array of ACLU issues from voting rights to immigrants’ rights and reproductive rights. Central to the ACLU’s agenda is taking head-on the structural racial inequities in our country.

For us in California, it also means advancing those same goals for bold change in our state, and in the cities and counties of our region. From Humboldt County, to the San Francisco Bay Area, to the Central Valley, and throughout Southern California, let’s do the work to make our state an example of the America that can be.

All of this requires continued executive action, but also Congressional action, and local and state action. It also requires your action. Thank you for all you have done over the past four years—and thank you in advance for sticking with us for the work ahead.

Abdi Soltani, Executive Director
ACLU of Northern California