

Vote No on 107 And Say Yes to Equal Opportunity

By RJ Shannon • Affirmative Action Officer • American Civil Liberties Union of Arizona

As a 57-year-old African American woman, I've seen unequal access firsthand. I saw it growing up in Chicago, when my mother and I had to sit in the "for colored only" section of the restaurant. I saw it when we couldn't buy a home in a certain neighborhood, and I saw it as one of only 33 Black students in a high school with 4,000 total students. I know what unequal access to educational, housing and employment opportunities has done to communities of color.



The American economic and educational systems have historically been based on privilege for some and roadblocks for others. Now, there is a myth around the country and here in Arizona – where I have lived for 30 years – that we all share equal advantages. After all, we have a Black president, so everything is as it should be, right?

But Black people still make up 25% of those living in poverty in Arizona and 20% of those who are incarcerated. Black people demonstrate the worst health outcomes in Arizona and across the nation. People of color are the unemployed and the homeless, and are first in line to go through the school-to-prison pipeline.

There are those who say that they worked hard for what they have and that no one ever handed them anything. Though they may not recognize it, they and their families before them are beneficiaries of opportunities only white Americans – and sometimes only men – could access, including good schools, good neighborhoods and good jobs. Though they may have worked hard, opportunities have been handed down and have had a lasting impact, even if explicitly discriminatory restrictions no longer exist.

Also on the Ballot

The ACLU of Arizona is urging residents to vote YES for the Arizona Medical Marijuana Initiative, known as Proposition 203. If approved, the proposition will allow people with specific medical conditions to be treated with marijuana. According to the provisions of the initiative, the Arizona Department of Health Services would be put in charge of regulating the sale and use of medical marijuana. The measure would also allow qualifying patients and caregivers to purchase the drug from specific clinics. Patients would be protected from arrest and prosecution for using the plant for medicinal purposes.

LGBT students protected by new rules in Dysart

With the urging of the American Civil Liberties Union of Arizona, the Dysart Unified School District has updated its student handbook to include protections for gay, lesbian and transgender students.

The Dysart governing board approved the updates on May 12. The ACLU of Arizona sent a letter to the district in April on behalf of high school student Caleb Laieski, urging officials to address the alleged "hostile environment" at Dysart schools that impacts many students.

The ACLU of Arizona also sent the district materials compiled by the Gay, Lesbian and Straight Education Network that show that some 90 percent of LGBT students nationwide are regularly harassed or threatened. GLSEN also reports that more than 50 percent of the students who are harassed never report the incidents.

Dan Pochoda, legal director for the ACLU of Arizona, said the group plans to meet with the school district to discuss possible sensitivity training programs for staff and students. The district's handbook update is "a good first step," he said.

Statewide Workshop a Hit

Almost 60 lawyers and community activists gathered in Phoenix to discuss how to handle the fallout from SB 1070 during an ACLU of Arizona workshop entitled *Preparing for July 29 and Beyond*.

The event was organized by ACLU Staff Attorneys Annie Lai and Victoria Lopez and

Advocates and attorneys discuss SB 1070 strategies

Program Coordinator Addy Bareiss, and was intended to bring together those working directly with

individuals and families affected by SB 1070 to share current practices and further develop effective response strategies.

"The goal was to get people talking," said Lopez. "There is a need to develop collaborative strategies. People have been calling on us individually, so we just felt it was a good idea to get everyone in the same room."

Some of the topics discussed included interviewing people who have experienced police misconduct; filing complaints with government agencies; obtaining police reports and other public records and delivering "Know Your Rights" presentations to diverse audiences.

Lai added, "Another goal of the workshop was to get lawyers to be more responsive to the communities they are embedded in. We work with a lot of amazing attorneys who have donated their time to pro bono projects – we would like to see that network grow."

Among the featured speakers were Pablo Alvarado of the National Day Laborer Organizing Network in Los Angeles, and Elizabeth Chatham, a local immigration attorney who discussed some of the discrimination faced by the South Asian community in the wake of 9/11.

Lopez said it's important for attorneys and advocates to be aware of all the different tools available to them.

"People were happy to get the information they needed to deal with SB 1070, and for the chance to network with other people who faced the same challenges they did," Lopez added.

ACLU of Arizona Staff Attorney Annie Lai during her presentation at the recent SB 1070 workshop in Phoenix.



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Celebrate Free Speech

Marking the start of National Banned Books Week, the ACLU of Arizona and Bookmans will host a free movie night aimed at highlighting the importance of free speech and the dangers of censorship. Michael Lacey, founder of *New Times* and executive editor of *Village Voice Media*, will introduce the Monty Python film *The Life of Brian*, which depicts the trials of a man born on the same day as – and next door to – Jesus Christ. When it was released in 1979, the movie was banned in several countries and prompted protests by religious groups throughout the U.S.

The event starts at 8 p.m. Saturday, September 25, at Madcap Theatre, 730 S. Mill Avenue, Tempe. For more information, contact Addy Bareiss, program coordinator at the ACLU of Arizona, at 602-650-1854, ext. 115, or abareiss@acluaz.org.

The worst part of censorship is



ACLU Summer Summit Brings students together

For 17-year-old Mitzi Solorio, going back to school for one day during her summer vacation was worth it – especially when the lesson she learned focused on her rights.

Mitzi was part of a group of 20-plus teenagers who came to Metro Tech High in Phoenix on a sizzling July day for the ACLU of Arizona's Student Summer Summit.

The event, organized by Program Coordinator Addy Bareiss and staffed by several volunteers, focused on how students can protect their rights and get more involved in their communities.

They heard from several guest speakers who discussed voting, scholarships, community activism and how students can protect their own rights.

The teenagers also worked on a video project and had time to enjoy pizza and some non-computerized, old school social networking.

The messages she heard at the summit – both from speakers and other students – made an impression on Mitzi.

"I know I need to be more involved," she said.

Bareiss said the idea behind the summit was to go beyond encouraging students to get involved – it also showcased how they can get involved.

"A lot of programs talk to students, not with them," she said. "Our goal was to engage students, talk about the issues that they care about and provide them with new tools to get active in their communities."

Alexa Magee, a recent graduate of Horizon High and an ACLU volunteer, also came to the Summit. She believes students who fight for their rights set an example that others can follow.

"The students who are involved care deeply about the issues that affect them," the 18-year-old said. "They are so passionate."

She also liked the idea of getting face time with students she otherwise would never have met.

"It's nice to feed off of their energy," Alexa said. "We were able to share a lot of ideas with each other, things we may not have thought of on our own."

Bringing students together, having them work with and teach other, paid off, Bareiss said.

"High school students need more opportunities to speak for themselves," she said. "They are often dismissed because they are young, but some of them have great ideas that deserve our attention."

Above left: ACLU volunteer Girard Kelly discusses video editing techniques with students at the ACLU Student Summit. Top right: Students Alexa Magee and Denise Olivas. Bottom right: ACLU of Arizona Program Coordinator Addy Bareiss talks with students Cody and Alan Williams.

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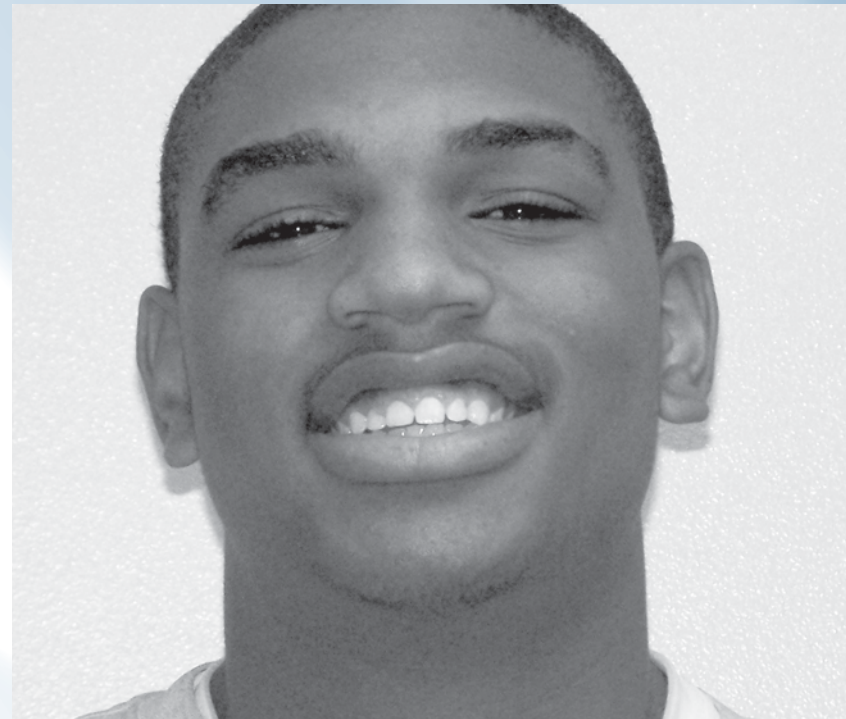
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Help us carry the torch forward and lead the way into the future by making a tax-deductible gift to the ACLU Foundation of Arizona. We cannot continue our work without your support. We ask you today to make a special contribution that will directly support our efforts. Please send your gift in the enclosed envelope; contact Lindsay Nordstrom, development and communications associate, at 602-650-1854 ext. 105, lnordstrom@acluaz.org; or visit www.acluaz.org.

What can you do to make Arizona a better place?



"Ask the right questions."
Alan Williams, 17



"A lot of people complain but don't do anything. I will be more involved in the community, because I can make a difference."
Mitzi Solorio, 17



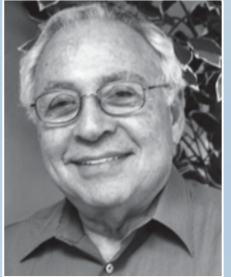
"I can provide insight, enthusiasm and leadership."
Cody Williams, 16

Update

From the Desk of Legal Director Dan Pochoda

Separation of Church and State

The ACLU of Arizona is litigating the case of *Winn v. Garriott* in the United States Supreme Court. The case involves the implementation of Arizona statutes that allow individuals to get dollar-for-dollar state tax credits for contributions for students to attend private schools, including religious institutions. The decision will have far-reaching implications in Arizona and on similar mechanisms throughout the country, and on the fundamental issue of the separation of religion and government and what constitutes improper public support of religious institutions in violation of the establishment clause of the First Amendment. The Court is also being asked to greatly reduce or eliminate the concept of "taxpayer standing." This doctrine, set out in the 1968 Supreme Court case of *Flast v. Cohen*, recognizes the unique importance of First Amendment protections in the area of religion. As a result the Court excepted from the general rule that absent specific and identifiable harm, an individual does not have standing to challenge a governmental action on the basis of being a taxpayer. Key decisions upholding First Amendment protections in the past forty years would have never been reached in the absence of this approach.



ASU law professor Paul Bender is the cooperating attorney on this case with co-counsel Isabel Humphrey of Hunter, Humphrey & Yavitz. ACLU Legal Director Steve Shapiro, and Dan Mach and Heather Weaver of the ACLU Program on Freedom of Religion and Belief are assisting on the Supreme Court submission and coordinating the amicus participants. It is anticipated that at least five amicus briefs will be submitted supporting our position. Marvin Cohen had long been the lead co-counsel for the ACLU on this matter, and with Paul and Isabel had masterfully led the case through many legal thickets, including prevailing on a prior argument before the Supreme Court. Unfortunately, Marv passed away last year.

The State sought Supreme Court review after the ACLU prevailed before the 9th Circuit Court of Appeals. In that decision, the Circuit remanded the case to the trial court after finding that as implemented, the regulatory scheme set up by the Arizona statutes was an unconstitutional use of public monies for sectarian religious schools. In a well-reasoned opinion, it was noted that the government could not directly spend monies in a way that greatly favors religious institutions to the detriment of public schools. The fact that Arizona is using an intermediary to accomplish this result (the "School Tuition Organizations") does not alter the fact that, in 2008 for example, faith-based schools received 93 percent of the \$54 million given to school-tuition organizations that year, and that many of these organizations limit scholarships to religious institutions. Despite the fact that in 2003 the legislative sponsors stated that the focus of the program was "entirely on low-income children" most of the recipients have six figure household incomes.

A message from Executive Director Alessandra Soler Meetze



While the primary focus of our legislative, legal and public education efforts this past quarter was on SB 1070, the ACLU of Arizona also was busy tackling other strategic priorities. Below is a summary of some of our recent accomplishments:

U.S. Supreme Court Review

- Two ACLU of Arizona cases were accepted for review by the U. S. Supreme Court.

First Amendment Wins

- Three First Amendment cases in the jail/prison context were favorably settled during this period; two involved damages for the failure of the Maricopa County Sheriff's Office to provide accommodations for the religious needs of a female Muslim detainee. The other resulted in changes in policy at the Corrections Corporation of America (CCA) Saguaro facility that denied prisoners access to *Prison Legal News*.

LGBT Discrimination

- As a result of our advocacy efforts on behalf of a 15-year-old high school student at Willow Canyon High School in Surprise, the Dysart School District will incorporate a change in the bullying policy for all high schools in the upcoming school year to specifically include LGBT as a protected class.

Immigrants' Rights

- We conducted 15 face-to-face interviews with detainees at ICE detention facilities in Eloy and Florence to document civil and human rights abuses;
- We have led a number of trainings and participated in public education programs covering immigrants' rights issues;
- In response to our advocacy on behalf of 33 women detained at Pinal County Jail, all of the women were transferred to "softer" facilities at Eloy and Florence;

- We also continued our advocacy efforts on behalf of individual detainees, including submitting a complaint to the Department of Homeland Security on behalf of a transgender detainee who was sexually assaulted by a detention officer at the CCA facility in Eloy, filing a parole request for a Jamaican man with a severe seizure disorder and submitting a demand letter to CCA on behalf of a gay, HIV positive man who was placed in segregated custody and being mistreated;
- Finally, we have been working with local and national partners through the Detention Watch Network's *Dignity not Detention* campaign to raise awareness about immigration enforcement and detention in Arizona and to identify additional resources to assist detained immigrants.

Women's Jail Project

- Launched a Women's Jail Project to improve access to pregnancy and abortion care for incarcerated women; and
- Filed records requests with Pima, Pinal and Maricopa counties and with the Arizona Department of Corrections to gather information about the number of pregnant women in these facilities and to obtain copies of policies related to reproductive health care in these facilities.

This important work cannot continue without your vital support!

I am asking you today to make a special, tax-deductible gift that will directly support our efforts to win important legal victories and advance civil liberties. Use the enclosed envelope or visit our website at www.acluaz.org and click on "donate now," because there will never be a better time to effect change in Arizona. I know I can count on your support.

Sincerely,

Alessandra Soler Meetze
Executive Director

SB 1070 Ruling A major step forward, but a long way to go

Less than a day before it was scheduled to take effect on July 29, a federal judge blocked some of the most dangerous provisions of SB 1070 from being implemented, but the battle to keep the law off the books is just beginning.

With that long road in mind, the ACLU of Arizona plans to continue its efforts to educate community members about their rights, and to keep monitoring enforcement of the existing provisions to protect people from overzealous police practices.

"Although we're relieved by the judge's ruling, we still have a lot of work to do," said ACLU of Arizona Executive Director Alessandra Soler Meetze. "We're optimistic the courts will ultimately find that all of SB 1070 violates the Constitution and should be struck down. Until then, we need to stay vigilant and guard against racial profiling, discrimination and unlawful detentions stemming from the provisions that have gone into effect."

Meetze also said it was vital to ensure that state and local officials don't use the standing provisions of SB 1070 to harass Arizona residents.

To help prevent this, ACLU staff attorneys Annie Lai and Victoria Lopez are working to organize a workshop in Tucson to help local lawyers and activists educate the communities they work with and follow up on complaints. A similar event in Phoenix in July drew nearly 60 people and earned rave reviews.

"The theme of the hearings in these cases, and the basis for the judge's decision, is the idea that a single state cannot take over what is supposed to be a national debate," said Lai, a key member of the ACLU legal team in the SB 1070 case. "In the quest to enforce a single law, our elected officials lost sight of all the other laws that unify us as a nation." Although Judge Bolton's ruling came in a lawsuit filed by the Department of Justice against the state of Arizona, it vindicated similar claims made by the ACLU and a coalition of civil rights groups, who filed an earlier suit challenging the discriminatory measure.

The ACLU and its coalition partners argued that SB 1070 would subject massive numbers of people - citizens and non-citizens - to police harassment.

Beside its inherently discriminatory nature, Meetze said, the law obscures and inhibits substantive dialogue on the real issue: comprehensive immigration reform.



The SB 1070 legal team in front of the federal courthouse in Phoenix after the July 22 hearing on the preliminary injunction to keep the law from going into effect. Judge Susan Bolton ultimately enjoined significant parts of the law.