

## 2013: Ensuring justice

### Keeping religion out of government

Arizona has proven fertile ground for some of the nation's worse infringements upon our constitutional right to be free from established religion and the ACLU is the only staffed legal organization in the state that is pushing back on those who want our government and religion intertwined.

This year, the Arizona legislature tried to pass SB 1178—a so-called “religious freedom” bill that was designed to legalize discrimination by expanding the definition of “exercise of religion” to sanction inequity that would otherwise violate state and federal law. The ACLU, with member calls and letters, made an excellent case for veto, leading Gov. Brewer to reject this highly dangerous bill.

Nationally, the ACLU this year remained a leader in the fight against the establishment of religion—from sending demand letters to public schools

promoting Christianity in South Carolina, Kentucky, Kansas and Ohio to filing briefs for U.S. Supreme Court review.

In November, the high court heard oral arguments in *Town of Greece v. Galloway*, a case for which the ACLU filed a friend-of-the court brief. The case is a First Amendment challenge to a New York town's practice of solemnizing its local board meetings with Christian prayer. The ACLU argued that when elected officials impose official prayer at meetings, it casts those who don't subscribe to the promoted beliefs as outsiders and second-class citizens.

### Advocating for young immigrants

The ACLU believes in the fair treatment of young immigrants. That's why we are challenging Gov. Brewer's decision to deny driver's licenses to migrants who have been granted the right to live and work in the U.S.

In Arizona, taking away a person's ability to legally drive can have serious consequences. Because of Gov. Brewer's order, many young people—often called DREAMers because they just want to pursue the American dream—are finding it harder to get to school and work.

In May, a federal district judge said that the ACLU was “likely to succeed” on its claim, in *Arizona Dream Act Coalition v. Brewer*, that DREAMers are being unfairly targeted.

But rather than ending the practice of excluding the young immigrants, the state responded by announcing in September that it will expand the driver's license ban to more migrants, including victims of domestic violence, widows and orphans.

With this ongoing lawsuit, the ACLU continues to fight for the fair treatment of faultless immigrants and the goal of dismantling Gov. Brewer's vindictive, unconstitutional policy.

### Fighting for sick patients

The voter-approved Arizona Medical Marijuana Act has been under constant attack since it passed in 2010. But the ACLU is working proactively in the courts and

defensively in the legislature to ensure that sick patients can get their medicine.

In October, we filed a lawsuit to protect the parents of a five-year-old boy with severe epilepsy from criminal prosecution. Mesa residents Jennifer and Jacob Welton were successfully treating their son's debilitating seizures with a medical marijuana extract. Their son, Zander, has a rare condition that did not respond to two brain surgeries and other medicines.

But they were forced to stop using the extract, which does not contain psychoactive chemicals, because some top

Arizona officials have suggested that only the marijuana plant itself is legal for medicinal purposes and thus any extracts derived from the plant are illegal.

So that Zander's parents can resume the most effective treatment for his debilitating illness, the ACLU is seeking a judgment declaring that the Arizona Medical Marijuana Act decriminalizes the use of extracts and other products derived from marijuana for medical purposes.

## Thank you

The ACLU is an influential organization with on-the-ground capacity in every state and a proven track record of protecting and expanding freedom. The organization's multifaceted, effective strategies are made possible by the generous support of its donors and card-carrying members.

The ACLU neither accepts government support nor charges its clients in legal actions. The gifts and membership dues of individuals make possible all that we do.

As we celebrate the ACLU's success over the past year and look toward future challenges, we recognize and thank our supporters.

The ACLU is much more than an organization—it is a movement made up of people fighting together for a better society. Thank you for standing with us.

## Ways to Give

The work of the ACLU is made possible by generous donors. There has never been a more important time to support this work. Here's how:

**Tax-Deductible Contributions by Check or Online:** Checks may be made payable to “ACLU Foundation of Arizona” and mailed to P.O. Box 17148, Phoenix, AZ 85011. Or contributions can be made online at [www.acluaz.org/donate](http://www.acluaz.org/donate).

**Appreciated Stock, Bonds and Other Securities:** Stock contributions via our broker do not identify the donor. To be credited with the correct contribution amount, you must notify the ACLU Foundation of Arizona. Please contact [donate@acluaz.org](mailto:donate@acluaz.org) or call the office at 602-650-1854.

Broker: Charles Schwab  
DTC: 0164 Code 40  
Corporation: ACLU Foundation of Arizona  
Charles Schwab One Acct: 62269950  
If stock transfer is being made by a self-directed online transfer, please add 593853800 in front of the 8-digit account number.  
IRS EIN #: 23-7238580

**Donor Advised Funds:** You may recommend a donation to the “ACLU Foundation of Arizona,” Tax ID Number 23-6213516, P.O. Box 17148, Phoenix, AZ 85011.

**Beneficiary Designations:** To name the ACLU as beneficiary of a life insurance policy, an IRA, Keogh, 401(k), 403(b) or other qualified retirement plan, please provide the following information to your financial institution: American Civil Liberties Union Foundation, P.O. Box 17148, Phoenix, AZ 85011. Tax ID Number 23-7238580.

**Life Income Gifts:** Make a contribution today and receive lifetime payments in return. In many cases you can increase your income, enjoy a current tax-deduction, avoid capital gains taxes and reduce your potentially taxable estate.

**Bequests:** For sample bequest language visit [www.aclu.org/bequest](http://www.aclu.org/bequest) or call the Arizona office at 602-650-1854.

**Other Instruments:** The ACLU accepts IRA Charitable Rollovers, Roth IRA Conversions, Real Estate, Business Interest, Artwork, Royalties and Other Property. Please contact ACLU of Arizona Development at 602-650-1854.

**Non-Tax-Deductible Giving:** Please consider making a non-deductible gift to the ACLU of Arizona's 501(c)(4) arm, which can be used more flexibly for our most pressing priorities, including legislative lobbying. Checks can be made payable to the “ACLU of Arizona” and mailed to: ACLU of Arizona, P.O. Box 17148, Phoenix, AZ 85011.

# Civil Liberties

## in Arizona



★ Standing Up for Freedom ★

Volume 42  
Issue 3



## The Year in Review

I could write volumes about the ACLU's work in the past year—thousands of legal actions, letters, meetings with legislators, public education campaigns and speaking engagements—here in Arizona and across the nation. The strategic, impact-oriented work we've undertaken in the past 12 months has changed millions of lives for the better.

Nationwide, the nonpartisan, principled values of the ACLU are being carried out by more than 1,000 staff members and thousands of volunteers. Since I became the Arizona affiliate's executive director seven years ago, the staff has grown from five to 14, including new litigators, lobbyists and organizers. This year, Arizonans supported the ACLU's work more than ever before.

Our strength, thanks to our supporters' commitment and generosity, allowed us to make great strides for liberty, equality, democracy and justice in 2013.

This newsletter touches on the highlights of our work.

From fighting Maricopa County Sheriff Joe Arpaio and the anti-immigrant SB 1070 to standing up for medical marijuana patients and lobbying for election reform, the ACLU of Arizona this year was at the forefront of some of the country's most important legal fights.

While we strive to resolve situations outside of the courts when we can, the reality is that in a state like Arizona—where politicians ignore the Constitution and abuse their power with abandon—litigation has become our most effective means of securing systemic change.

This fall, after years of proceedings, we celebrated a historic victory in our racial profiling case against Sheriff Arpaio. This win means Maricopa County residents will no longer need to fear arrest because of their skin color. It will also cause law

enforcement agencies across the country to rethink how they conduct themselves.

Throughout the year we continued our challenge to the “show me your papers” provision of SB 1070, which encourages unconstitutional policing. Our approach has been multifaceted: engaging police departments and city councils, conducting “Know Your Rights” trainings in every Arizona county and documenting SB 1070's unconstitutional effects in anticipation of litigation.

The financial contributions of our supporters have also allowed the ACLU to expand its influence in Arizona. The effects of that growth are already echoing in national conversations about civil liberties.

In June, the ACLU opened a border litigation office in Tucson. In just six months, this office has helped make the ACLU the “go-to” organization for information about U.S. Customs and

Border Protection abuses and the need for oversight.

In spite of our recent accomplishments, Arizona continues to be a laboratory for some of the country's most troubling policies. The ACLU of Arizona's role in defending our freedom is now more important than ever. Our work is about standing up for fundamental American values.

I hope that reading these highlights will remind you how important it is for Arizona to have a strong ACLU. Your support is critical. I ask you to consider a year-end donation to advance this work.

In liberty,

Alessandra Soler  
Executive Director, ACLU of Arizona

Donate at [www.acluaz.org/donate](http://www.acluaz.org/donate)

Periodicals  
Postage Paid  
Phoenix, AZ





Board of Directors

- Dale Baich
Alice Bendheim
Fred Bevins
Donna Branch-Gilby
Laura Dent
John Fife
Carol Flaherty-Zonis
Marilyn Freed
Jason Green
Jere Humphreys
Rivko Knox
Madelaine Kochen
Matt Korbeck
Limell' Lawson
Steve Lee
Andrea Levy
Anne Mardick
Robert Meitz
Alex Mich
D. Marie Provine
M. Mujahid Salim
RJ Shannon
Mohur Sidhwa
Phillip Stevenson
Larry Trachtenberg
Tod Zelickson
Zenaido Quintana
President
Alessandra Soler
Executive Director
Dan Pochoda
Legal Director

Publishing info

Civil Liberties in Arizona is published regularly by the ACLU of Arizona (ISSN 0164-4475). Periodical postage paid at Phoenix, AZ. Postmaster send address changes to PO Box 17148, Phoenix AZ 85011.

2013: Promoting equality, defending liberty, protecting democracy

Reining in the long arm of the law

After years of litigation, Arizona's federal district court this year issued its decision in the ACLU's racial profiling case against Maricopa County Sheriff Joe Arpaio. The victory was nothing less than historic.

"Judge Snow recognized that Sheriff Arpaio's years of discriminatory practices and unconstitutional policies required major change."

Dan Pochoda, ACLU of Arizona legal director, quoted by Bloomberg News, Oct. 2, 2013



1

Defending targets of discrimination

This year, the ACLU put Arizona's law enforcement agencies on notice that they will be held accountable for constitutional violations that result from the implementation of the state's "show me your papers" law, Section 2(B) of SB 1070, an anti-immigrant statute.

The U.S. Supreme Court last year overturned much of SB 1070 but declined to enjoin Section 2(B), which had not yet gone into effect, because the majority found a "basic uncertainty" about whether law enforcement officers would implement the provision in a harmful manner.

This year we launched a statewide public education campaign, United Against 1070, to inform communities about the law and their constitutional rights. We're encouraging people to report SB 1070 abuses by calling our hotline, contacting us online or downloading a mobile app we developed.

In the courts, the ACLU is moving forward with a class action lawsuit, Valle del Sol v. Whiting, to challenge the remainder of SB 1070. In October, that suit, which represents 24 organizations and individuals from across Arizona, knocked out yet another provision of the discriminatory law.

This fall, the ACLU also initiated the first individual challenge to Section 2(B) since it went into effect in September of 2012. We're representing Alex Valenzuela, a DREAMer who was unlawfully detained and taken to Border Patrol this summer by South Tucson police officers.

Finally, the ACLU is lobbying police departments and municipalities across the state, informing them of the law's basic failings and explaining that SB 1070 doesn't trump the U.S. Constitution or provide an excuse for discriminatory policing.



4

In the past year...

Arizonans supported the ACLU at record levels, making 11,913 donations.

The number of Arizona leadership supporters, who invest \$10,000 or greater in the ACLU, more than doubled.

We hosted a community hotline following the U.S. Supreme Court's SB 1070 decision, answering over 6,000 calls.

We received 2,007 complaints and selected 134 for investigation.

We filed 42 requests for public records.

We testified 6 times before policymaking bodies.

Celebrating a hard-fought victory for gay rights

This year, Edie Windsor and the ACLU successfully challenged the Defense of Marriage Act at the U.S. Supreme Court. The prejudicial law prevented the federal government from recognizing same-sex couples' marriages.



2

On June 26, the high court ruled that section three of DOMA is unconstitutional and that the federal government cannot discriminate against married gay couples for the purposes of determining federal benefits and protections.

Edie and Thea Spyer shared their lives together for 44 years and were finally legally married in May 2007. Two years later, Thea passed away.

When Thea died, the federal government refused to recognize the women's marriage and taxed Edie's inheritance as though Thea was a stranger. Under federal tax law, a spouse who dies can leave her assets, including the family home, to the other spouse without incurring estate taxes.

Edie and the ACLU argued that DOMA violated the equal protection principles of the U.S. Constitution. This major victory is the latest chapter in the ACLU's nearly eight-decade fight for the government's equal treatment of LGBT people.

To capitalize on the decision, the ACLU launched an ambitious new campaign, Out for Freedom, to win marriage nationwide through legislation, public education and litigation.

Freedom, to win marriage nationwide through legislation, public education and litigation. The ACLU has brought three new federal marriage cases, filed two state marriage lawsuits, is lobbying to pass freedom-to-marry laws in a number of state legislatures and is organizing ballot campaigns to repeal some of the 29 constitutional amendments that bar same-sex couples from marriage.

In Arizona, the ACLU is leading an effort—Why Marriage Matters Arizona—to build support for a voter initiative to bring the freedom to marry to all couples.

"Many Americans were shocked earlier this year to learn that the National Security Agency has engaged in massive, sustained and systemic surveillance of millions of people. Unfortunately, the ACLU was not."

Alessandra Soler, ACLU of Arizona executive director, op-ed in The Arizona Republic, Sept. 15, 2013

Preserving our privacy

The ACLU has been at the forefront of the struggle to curb government surveillance, which strikes at the core of our rights of privacy, free speech and association.

A constant stream of new technology is dissolving existing privacy protections, greatly expanding government power to peer into our lives without due process or meaningful oversight. Our rights and liberties have undergone constant erosion since 9/11.

Things we once thought could only happen in far-away enemy states or distant dystopias are suddenly happening here in America.

In Arizona, the ACLU is proposing privacy legislation and educating the public about the realities of government spying. In D.C., the ACLU is pushing Congress for stricter limits on data collection. The ACLU has also filed several historic lawsuits to stop the government's overreaching surveillance protocol.

Following revelations about the National Security Agency's mass tracking of Americans' phone calls, the ACLU immediately challenged the practice's constitutionality in federal court. This case is ongoing and led to a hearing, in November, where the government had to appear before a judge and defend the program in public for the first time.



3



5

Keeping government in check on the border

In June, the ACLU opened a Border Litigation Office in Tucson, allowing us to have a greater presence in southern Arizona and increasing our capacity to document, investigate and litigate civil and human rights abuses in Arizona's border region at a critical time in our nation's debate about immigration reform.

We have already acted on complaints about excessive use of force by Border Patrol agents, unlawful arrests by police and law enforcement abuses at checkpoints and border crossings.

For instance, on behalf of Clarisa Christiansen and several other citizens, the ACLU filed an administrative complaint with the U.S. Department of Homeland Security, asking federal officials to investigate Border Patrol's behavior.

Clarisa was stopped, harassed and threatened with a stun gun by Border Patrol officers while she was on her way home with her two young children. They were held at the side of a hot, desert road for over 30 minutes without explanation. The officers then left Clarisa and her children there with a flat tire, caused by a gash in the sidewall that was not present before the stop.

Standing up for women's rights

The ACLU had two huge victories for women's rights in Arizona this year.

First, in May, the U.S. Court of Appeals for the Ninth Circuit struck down an Arizona law that aimed to criminalize virtually all abortions after 20 weeks of pregnancy. With a lawsuit, Isaacson v. Horne, the ACLU successfully challenged the law on behalf of three physicians and their patients.

Second, despite a court ruling declaring that Arizona cannot eliminate qualified medical providers from Medicaid simply because they perform abortions, anti-choice forces tried to use Medicaid expansion discussions during the legislative session to de-fund those providers.

The same forces also pushed legislation to allow unannounced, warrantless inspections of health facilities that provide abortions. These efforts were designed for one purpose—to limit women's access to safe abortion care and sound medical treatment.

Our legislative and legal advocacy in this area helped stop these bills in their tracks. Gov. Jan Brewer did not pursue these unlawful policies and legislators did not move these proposals forward.



6

"Giving the largest federal law enforcement agency [U.S. Customs and Border Protection] ... few if any accountability mechanisms ... is a recipe for civil liberties abuses, and seriously risks further erosion of Fourth Amendment rights."

James Duff Lyall, ACLU of Arizona border litigation attorney, quoted in The New York Times, Aug. 18, 2013

Photos: 1. Maricopa County Sheriff Joe Arpaio; Photo courtesy of Gage Skidmore/Flickr 2. Thea Spyer and Edie Windsor 3. Photo courtesy of mw238/Flickr 4. Photo courtesy of JacobRuff/Flickr 5. Photo courtesy of CBP Photography/Flickr 6. Photo courtesy of Fibonaccii Blue/Flickr 7. Photo courtesy of Ceyshie/Flickr 8. Photo courtesy of DreamActivist/Flickr 9. Jennifer and Jacob Welton with their three sons—Zander, 5, is on the left; Photo courtesy of Randy Stock

continued on page four >