

ACLU magazine

FOR PASSIONATE GUARDIANS OF CIVIL LIBERTIES



An ACLU investigation into racial covenants unearths an insidious campaign of housing discrimination.

BURIED TRUTHS



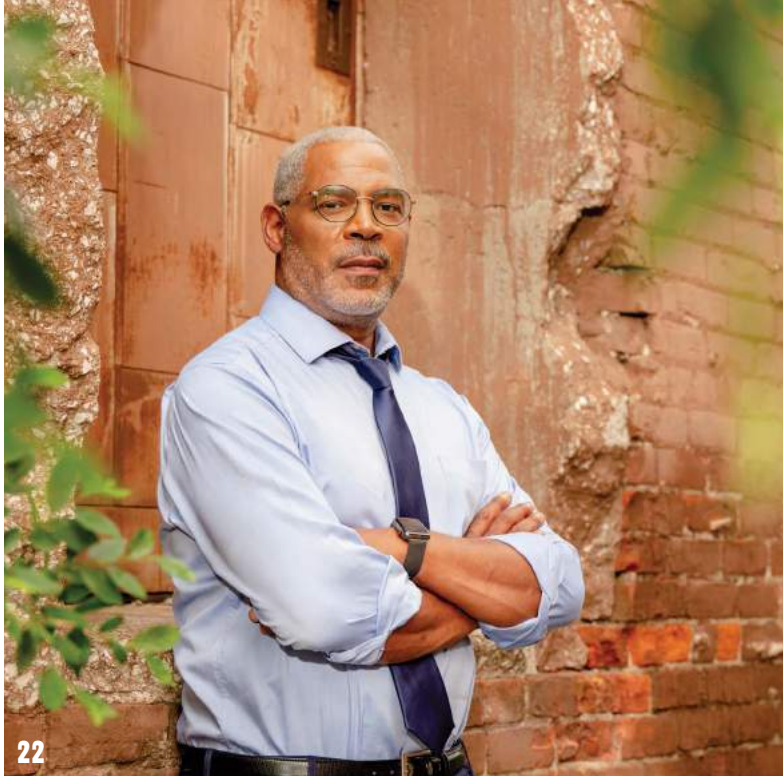
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On the cover: Illustration by Cristiana Couceiro

As we close this issue of *ACLU Magazine*, we're reminded once again of how civil liberties and civil rights are inextricable. I'm writing this letter days after the U.S. Supreme Court upheld voting restrictions in Arizona and narrowed the protections of Section 2 of the Voting Rights Act, which prohibit racially discriminatory voting laws and practices. The decision has profound implications for how states evaluate voting rules in advance of next year's midterm elections and for many years to come. The ACLU will continue to challenge suppressive laws in court and vindicate Section 2's purpose.

The court also decided a First Amendment case argued by the ACLU that impacts the free speech rights of 50 million public school students. In a great victory, the court agreed with us that schools do not have the authority to punish speech outside of the school grounds, preserving the right for young

people to speak freely without fear of censorship. "Keeping Student Speech Free" (p. 4) discusses the case, *Mahanooy Area School District v. B.L.*, and its presence in the ACLU's long history of defending student speech.

Voting rights and freedom of speech are cornerstones of our democracy. But protecting and advancing civil liberties means also recognizing and addressing assaults on civil rights. And progress is not preordained: In a disappointing, narrow ruling, the court sided in June with a Philadelphia foster care agency that will not work with same-sex couples. Most importantly, however, the court did not grant a license to discriminate against LGBTQ couples on religious grounds, as the agency had asked.

"There is much to be hopeful for—and yet we cannot rest."

President Trump no longer occupies the Oval Office, but his anti-civil-liberties and anti-civil-rights policies have taken hold in many state legislatures. In 2021 alone, state lawmakers introduced 389 bills of state-sanctioned voter suppression, criminalizing voting and gutting access to the ballot for people of color; 561 bills blocking access to abortion; and more than 100 bills restricting transgender rights. As a result, the ACLU's efforts to defend civil liberties and civil rights have shifted dramatically to the states, after four years of relentless assault on the federal level.

As you'll read in this issue, this fight isn't just about taking down today's threats. It also requires us to address and correct past harms. In "Buried Truths" (p. 16), the ACLU unearths racial covenants, poisonous relics of segregation that still exist in home deeds across the country and contribute to the racial wealth gap. "Restoring Asylum" (p. 10) describes the collaborative efforts of the ACLU and dozens of partner organizations in San Diego, who stepped in to provide legal and humanitarian aid to asylum seekers met with a broken immigration system. And in "Community Watch" (p. 22), ACLU activists from Dayton to Detroit take on decades of racist police-surveillance technologies and chart a path forward for transparency.

There is much to be hopeful for—as evidenced in these stories of activists and attorneys, ACLU partners and supporters. And yet we cannot rest. As states continue to wage war on our country's founding ideals, the ACLU will once again heed the call. Silence and inaction are not options when so much is at stake.



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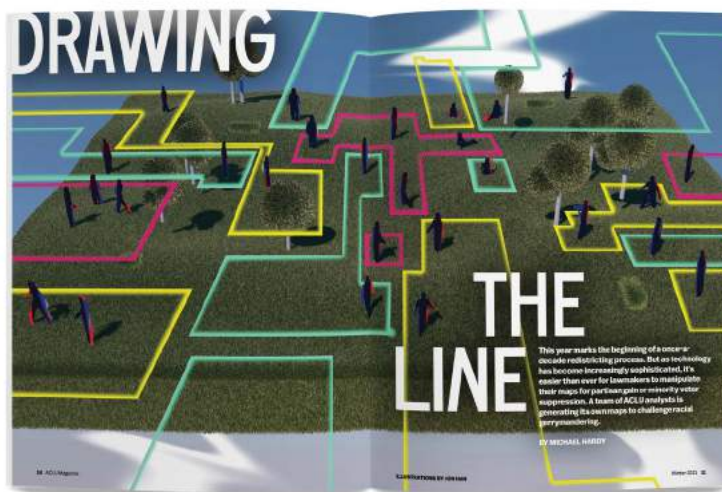
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The Winter 2021 issue of ACLU Magazine features the ACLU's efforts to combat racial gerrymandering.

Re: "Drawing the Line"

In response to your article [on redistricting] in the Winter 2021 issue, I have been thinking how one would "fairly" distribute representatives to Congress on a racial basis. It appears the only fair thing is to draw the district lines according to a bipartisan commission not controlled by the state legislature. We need to take steps to make people understand that racial bias is not fair, and we should change the rules to discourage such bias.

*Jerry Greenfield
Richland, WA*

Re: "The Road to Reform"

While I appreciate all your well-researched and thoughtful articles, I particularly want to compliment artist Celyn Brazier on the delightful illustrations for the article on the War on Drugs in the Winter 2021 issue. I found them fascinating, creative, joyous, and hopeful.

*Jean Braxton
Salt Lake City, UT*

Re: "Advancing Racial Justice"

In Priorities, you called upon the new administration to confront our country's racist legacy. I could not agree more. Real change requires us to step out of the convenient fog of ignorance. As we require our new leaders to confront centuries of racist violence and injustice, each of us needs to confront it in our own lives and hearts, too.

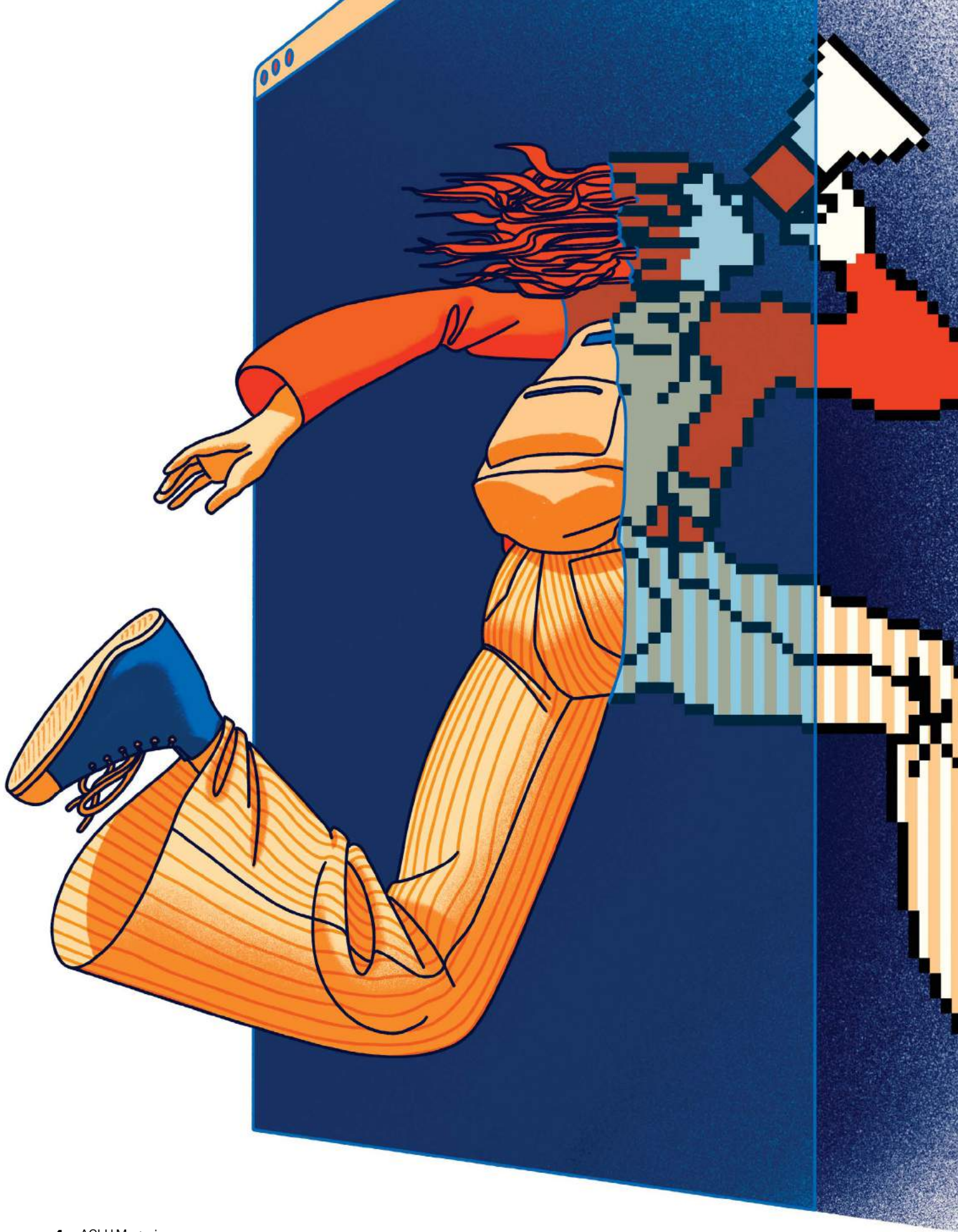
*Adrienne Cunningham-Blank
Reisterstown, MD*

Re: Why I Give

The Winter issue prompted me to donate. In it, you address several issues I consider long-term civil liberties challenges facing the U.S.: militarization of the police, decriminalization of sex work, gerrymandering, and equitable marijuana reform. Keep up the good work!

*Bruce Tripp
Virginia*

We love your feedback! Let us know what you think about this issue: ACLUmagazine@aclu.org



FRONT LINE

PRIORITIES

Keeping Student Speech Free

A crucial First Amendment fight goes from Snapchat to the Supreme Court.

The ACLU won an important legal battle over the speech rights of young people this year. In June, the Supreme Court sided with the ACLU's client in *Mahanoy Area School District v. B.L.*, stating that schools must respect students' rights to express themselves outside of school. The ruling will have a far-reaching impact on the social and political lives of 50 million public school students.

Over Memorial Day weekend, in 2017, Brandi Levy, a high school freshman in eastern Pennsylvania, sent a Snapchat to her friends that expressed her frustration with not making the varsity cheerleading squad. "Fuck cheer...fuck everything," she proclaimed. Another student took a photo of the message, showed it to a cheerleading coach, and the school responded by suspending Levy from the squad for a year. The ACLU of Pennsylvania filed a First Amendment suit on her behalf, arguing that the school could not punish a student for speech expressed on her own time outside of

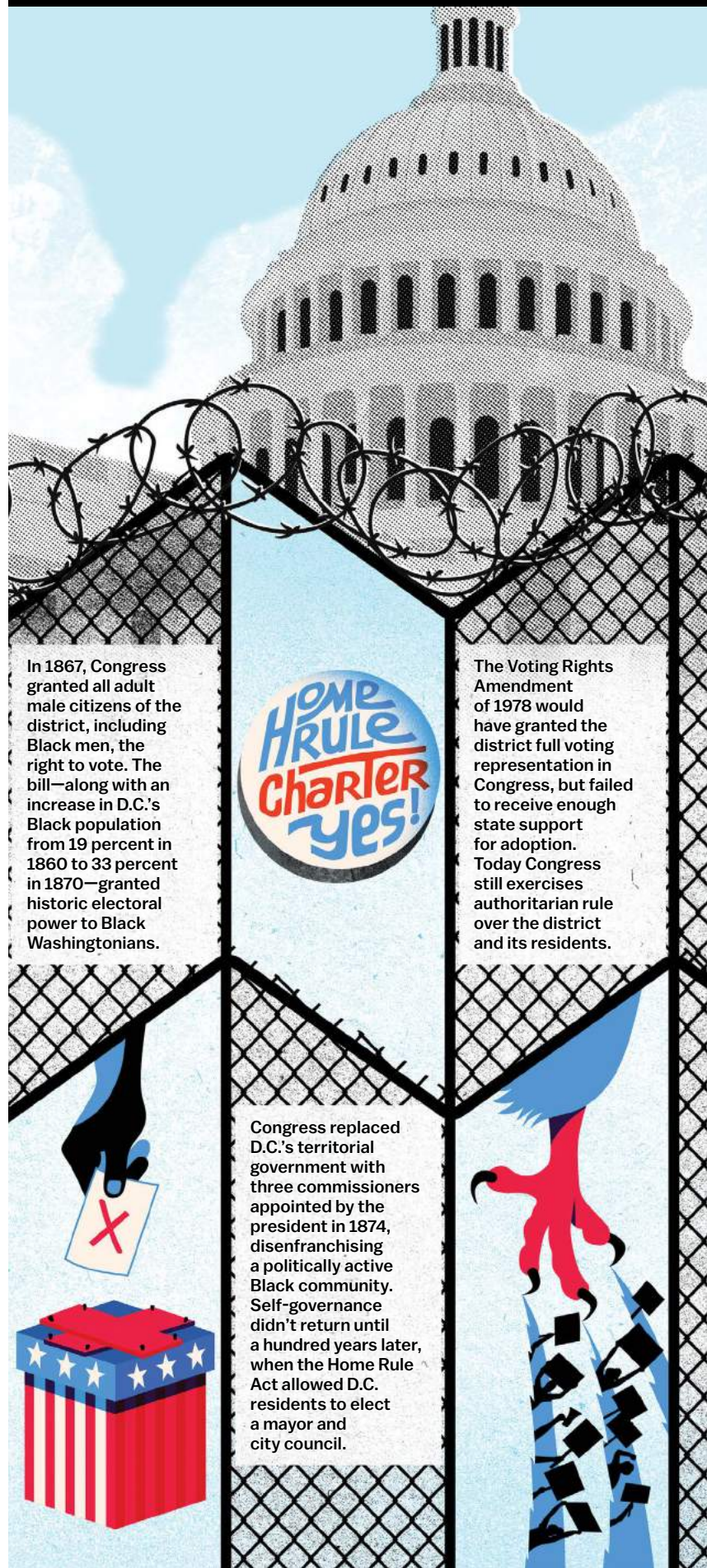
CONTINUED FROM PAGE 5

school. “This expression may seem trivial,” says ACLU Legal Director David Cole, who argued the case before the court in late April, “but what the school argued was that students should never be free to engage in speech that is unaccountable to the principal of the school. It’s about whether students have *anywhere* that they can speak freely.”

The ACLU first tilled this ground in the landmark 1969 case *Tinker v. Des Moines Independent Community School District*, which established that public school students have First Amendment rights at school, unless their speech disrupts the educational process. Over the years, exceptions have been added to *Tinker*, and in this latest case, the court considered whether to extend the in-school tests to off-campus speech. It was a chilling prospect in an age when young people’s speech outside of school is often accessible to school authorities via social media, which is why organizations across the ideological spectrum supported the ACLU’s stance. While both sides arguing the case agreed that schools aren’t barred from disciplining student behavior off campus or online that threatens violence or engages in harassment or bullying, this case didn’t involve any of those elements. “Schools can deal with off-campus bullying in keeping with the First Amendment,” says Cole. “What they can’t do is punish off-campus speech because they deem it controversial, vulgar, or inappropriate.”

Allowing *Tinker*’s broad disruption standard to apply outside of campus would have allowed schools to censor any student who engages in speech that is unpopular or critical of the school. Administrators could wield this power in ways that punish those with whom they disagree, and could do so in racially biased ways. “The most distressing examples of censorship that we’ve seen recently involve students of color who got suspended for criticizing racist statements by their fellow students,” says ACLU of Pennsylvania’s Legal Director Vic Walczak, who has filed half a dozen such off-campus student speech cases over the last 22 years. “Schools already misuse their authority in discriminatory ways, so why would anybody think they’re going to use it in a fairer way if you extend their authority off campus?”

Whenever schools have overreached, the ACLU has prioritized the protection of student speech rights fundamental not to any one political position or cause but to all. “We were there at the beginning, and we’re here today,” says Cole. “If you look around the country at cases protecting students’ free speech rights, the vast majority of them are handled by the ACLU—this is our bread-and-butter work.” —JAY A. FERNANDEZ



In 1867, Congress granted all adult male citizens of the district, including Black men, the right to vote. The bill—along with an increase in D.C.’s Black population from 19 percent in 1860 to 33 percent in 1870—granted historic electoral power to Black Washingtonians.



The Voting Rights Amendment of 1978 would have granted the district full voting representation in Congress, but failed to receive enough state support for adoption. Today Congress still exercises authoritarian rule over the district and its residents.



Congress replaced D.C.’s territorial government with three commissioners appointed by the president in 1874, disenfranchising a politically active Black community. Self-governance didn’t return until a hundred years later, when the Home Rule Act allowed D.C. residents to elect a mayor and city council.



The Case for D.C. Statehood

Washington, D.C., is the only national capital in the democratic world whose citizens do not have equal voting and representation rights. The denial of representation is an overt act of voter suppression with racist roots in Reconstruction. The district's more than 700,000 residents—the majority of whom are Black and Brown—are still being denied those rights 150 years later despite paying more federal taxes per capita than any state. In the past year alone, D.C. residents did not have full representation for key decisions on the city's local response to COVID-19, ongoing protests, and the insurrection attempt at the U.S. Capitol.

ILLUSTRATION BY MITCH BLUNT



In 2016 alone, there were 25 attempts by Congress to overturn or change local D.C. laws. That same year, almost 86 percent of D.C. voters supported statehood in a referendum to end the disenfranchisement of a non-minority Black jurisdiction.

All D.C. legislation must go through congressional review before taking effect, and Congress regularly blocks the district from using its own local tax dollars to provide social services, including abortion coverage for individuals enrolled in Medicaid, something states are free to do.

In April 2021, the House passed H.R. 51, granting D.C. congressional representation as the State of Washington, Douglass Commonwealth. Now the matter moves to the Senate.

To urge your senators to support the creation of the 51st state, visit acludc.org/statehood.



Disability Rights

An estimated one out of every four people killed by law enforcement was experiencing a mental health crisis, and people with disabilities represent one-third to half of all people killed by the police. For Black Americans, who are more than three times as likely to experience police violence and often lack access to mental health care, the threat is even higher.

Under the Americans with Disabilities Act (ADA), it is illegal for state and local government services, including law enforcement, to discriminate against people living with disabilities. But it remains unresolved whether ADA protections apply to police encounters or use of force (for example, requiring mitigation strategies).

In New York state, Daniel's Law, if passed, would remove law enforcement as default first responders to every crisis and would only permit the police to respond when another person's safety is at risk. The legislation supports a system of local response units trained and designed to help people in crisis.

Visit aclu.org/disability-rights to learn how federal laws provide protection from discrimination and exclusion.

ILLUSTRATION BY HAYLEY WALL



The New Battle for Voting Rights

The ACLU confronts a troubling wave of sweeping voter suppression bills.

In the wake of record turnout in the 2020 general election, state legislators around the country have pushed more than 380 bills to create new voting barriers that disproportionately disenfranchise Black and Latinx voters. Amplifying the threat is a disappointing Supreme Court decision in *Brnovich v. Democratic National Committee* that upheld voting restrictions in Arizona and adopted a narrow view of Section 2 of the Voting Rights Act. “Section 2 is one of the more effective

tools we have to challenge voting restrictions on the grounds of racial discrimination,” says Sophia Lin Lakin, deputy director of the ACLU’s Voting Rights Project. “We will continue to use it to fight racially suppressive laws.”

Access to the vote is critical to retaining our civil liberties. “Even though these bills are tearing at the fabric of our democracy, advocacy and the effort to push back [have] been effective,” says Lakin. “It’s a huge effort.”

Here are some of the states we’re watching and where we’re fighting back.

Texas

This spring, the Texas Legislature proposed widespread changes to the election process, including limiting early voting, banning drive-thru voting, and requiring counties to redistribute polling places, dramatically reducing the number of voting locations in Black and Brown communities. At press time, the state’s voter suppression attempt was unsuccessful, but legislators convened a special session in July to revisit it.

Florida

Signed into law in May, S.B. 90 makes it more difficult to obtain vote-by-mail ballots and makes it a crime for volunteers to provide water to voters waiting in line. The legislation, which is facing legal challenges from ACLU partners, also restricts the use of drop boxes, which more than 1.5 million Florida voters used in 2020.

Georgia

On the heels of record turnout among Black voters this year, Governor Brian Kemp signed into law S.B. 202, which bans mobile voting and, like Florida, prohibits volunteers from providing food and water to voters waiting in line, impacting communities of color, who face disproportionately long wait times to vote in Georgia. The ACLU is part of a federal lawsuit contesting the bill.

Montana

In May, the ACLU filed litigation challenging two new bills in Montana that target Native Americans’ right to vote. H.B. 176 eliminates voter registration on Election Day, which reservation voters count on, and H.B. 530 limits ballot collection on rural reservations. —J.A.F.

What You Can Do

Urge your legislators to pass the John Lewis Voting Rights Advancement Act (VRAA) to curb state suppression efforts.

Visit aclu.org/vraa to learn more.

Introducing Deborah Archer

The civil rights lawyer and scholar is the first Black person to become the ACLU's national board president.

Deborah Archer's earliest memory of protest came when she was just a child. Her Jamaican immigrant parents moved their family from Hartford, Connecticut, to the suburbs, where they felt they could give their children a better life and education. They were one of just two Black families in their new neighborhood, and her white neighbors quickly made it clear they were not welcome. One

morning, the family woke to find their new home vandalized, "KKK" spray-painted across their house and car.

"For me, going back into that house was my earliest memory of resistance," Archer recalls. "Playing in our yard, going to our neighborhood playground—I view all of those as acts of protest, like the small acts of resistance that Black people have engaged in throughout history."



Today, Archer is a sought-after expert in civil rights, civil liberties, and racial justice and the new president of the ACLU's national board. She replaces Susan Herman, who stepped down after serving for 12 momentous years. Archer has been a member of the ACLU board since 2009. A tenured professor of clinical law and director of the Civil Rights Clinic at New York University School of Law, she assumes her new role at the ACLU at a pivotal moment.

"COVID-19 was introduced into a society and systems that are profoundly racially discriminatory in individual, institutional, and structural ways," says Archer. "We have to address those long-standing inequalities that have resulted in such an unbalanced burden for people of color."

At the ACLU, that means continuing to challenge the structures that fuel systemic racism and inequities in housing, voting rights, and access to resources, and guarantee the Constitution's promises for everyone. Above all, it requires reconciling the past by confronting hundreds of years of racial discrimination and investing in the communities harmed by our country's troubled legacy. These principles guide the ACLU's Systemic Equality agenda to achieve racial justice.

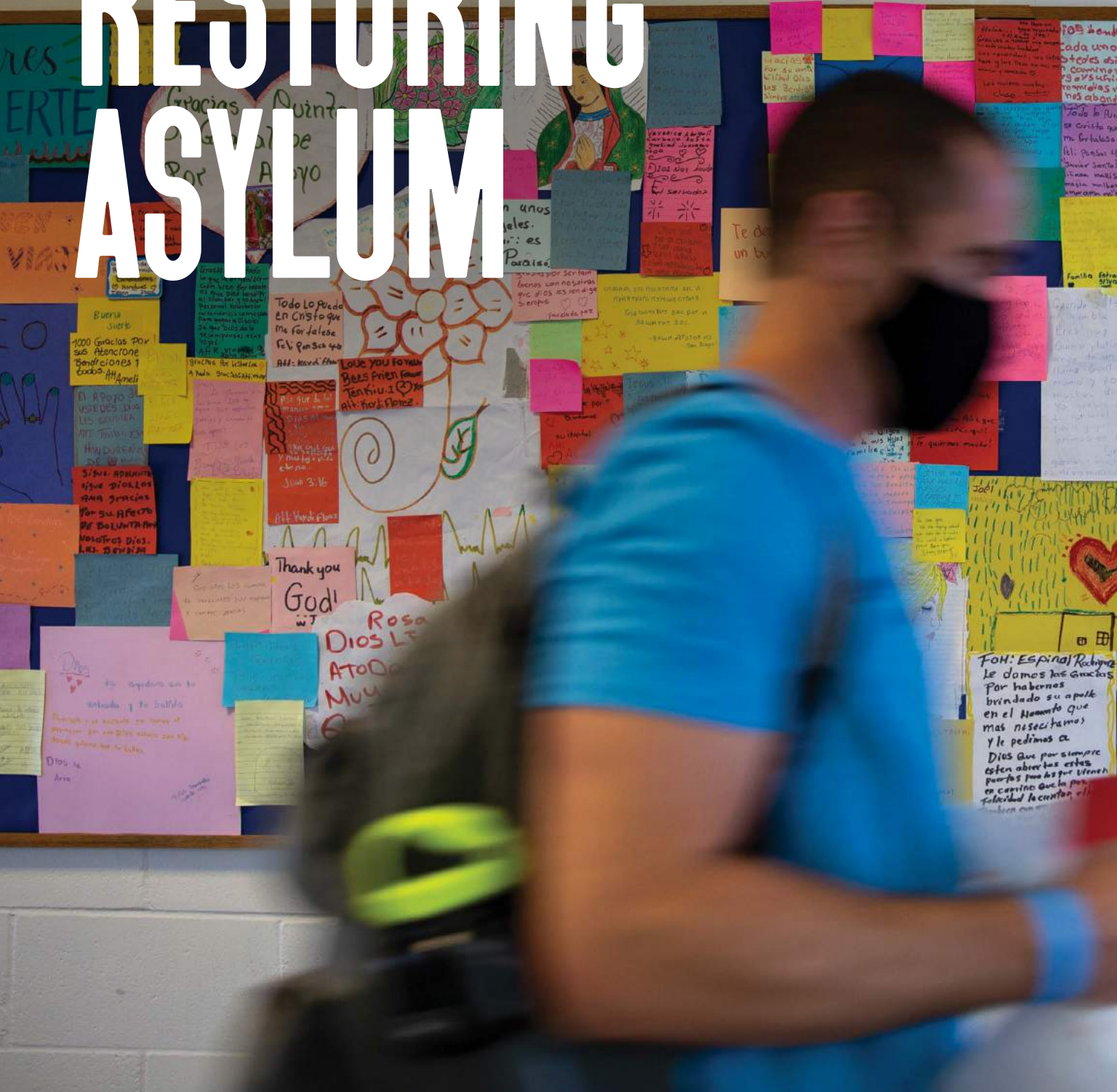
For her part, Archer draws inspiration from the spirited movement against anti-Black racism that swelled during the summer of 2020, when young activists and ACLU members took to the streets to demand change.

"Younger folks engaged in this movement don't feel constrained by the losses of the past, and they have imagination beyond belief," says Archer. "They are fearless, they are creative, and they are not deterred."

Deborah Archer wants to hear from you! She'll answer your questions in the next issue. Please send to ACLUmagazine@aclu.org. This story originally appeared, in part, on [aclu.org/news](https://www.aclu.org/news).

Shortly after the inauguration of Donald J. Trump, the ACLU of San Diego & Imperial Counties launched a network to provide humanitarian and legal aid to asylum seekers. The San Diego Rapid Response Network quickly became California's first responder for immigrants seeking safe haven. BY JAY A. FERNANDEZ

RESTORING ASYLUM



The San Diego Rapid Response Network's core partners include Jewish Family Service (JFS), which runs a shelter for asylum-seeking families. Below, Eitan Peled, a JFS border services advocate, walks past a shelter wall of letters and drawings by immigrants assisted by the network. At right, Peled speaks to Yuris, an asylum seeker from Honduras.



nari Reyes* was pregnant and full of hope when she arrived at the San Ysidro Land Port of Entry on the United States-Mexico border one morning in March. Along with her 10-year-old son and 7-year-old daughter, Reyes was nearing the end of a brutal, 2,900-mile journey. The family had fled violent circumstances in Honduras and made their way to temporary shelter in Tijuana, where they were permitted entry to the United States for urgent humanitarian reasons.

But when Reyes took her first steps onto U.S. soil, exhausted and on the cusp of labor, she had no way of knowing what awaited her family. The Trump administration had just spent four years demonizing and terrorizing immigrants and asylum seekers by prolonging detention, gutting due process rights, separating children from parents, and weakening protections for unaccompanied minors. Even as President Biden had begun to roll back anti-immigrant policies and process small numbers of asylum seekers, much of the hostile framework fostered by Trump remained in place. But instead of being detained like others before them, Reyes' family was escorted to a sally port at San Ysidro and delivered into the welcoming arms of the San Diego Rapid Response Network (SDRRN).

Created in December 2017 by the ACLU of San Diego & Imperial Counties with a handful of core partners, SDRRN is a unique ecosystem of immigrants' rights groups, social service organizations, and volunteers dedicated to supporting immigrants, asylum seekers, and their families. The extensive regional coalition involves more than 40 partners working to provide refuge and transitional support to tens of thousands of asylum seekers and immigrants, while minimizing the devastating effects of abusive immigration enforcement, family separation, and deportation.

Requesting asylum is a legal right in the United States, and the ACLU has long fought to protect the rights and civil liberties of immigrants against lack of due process, unlawful search and seizure, and human rights violations, while combating discrimination and unconstitutional enforcement tactics, regardless of who is in power. Still, Trump's malfeasance was a drastic departure from previous administrations, and forming the SDRRN



became a natural extension of the ACLU's mission to restore American ideals to a broken system.

In Reyes' case, once cleared by border patrol the family boarded SDRRN's "Welcome Bus" to a local hotel. SDRRN volunteers gave Reyes pre- and post-delivery rides to and from the hospital; provided the family with donated meals, clothes, infant supplies, and medical support; and eventually arranged for the family's air travel to their stateside destination, where they await a court hearing for their asylum claim. Reyes' story is not unusual, and without SDRRN her prospects would inevitably have been bleaker. Thanks to the network, she was given a warm welcome in line with the country's principles. But the situation remains perilous for many others trapped in the gravely damaged system Trump left behind. In this way, the SDRRN serves as a powerful example of what a community invested in the humane treatment of asylum seekers can accomplish. But it's also a glaring indictment of what local, state, and federal government have refused to do.

The San Diego Rapid Response Network was forged in the angry fire of the Trump administration's virulent anti-immigrant policies and assault on the asylum system. Throughout the 2016 presidential campaign, Trump's xenophobic rhetoric signaled that racism and cruelty would drive a raft of restrictive policies. For a border community like San Diego, the messaging was like a smoke alarm going off full blast. "We were preparing for a worst-case scenario," says ACLU of San Diego & Imperial Counties Executive Director Norma Chávez-Peterson. "We knew that undocumented immigrants in particular were going to have a huge target on their back."

At the time, San Diego & Imperial Counties, which comprise California's border with Mexico, had approximately 200,000 undocumented residents worried that their mixed-status families were going to be separated at any moment by federal authorities. After Trump's inauguration, Chávez-Peterson helped assemble 150 stakeholders from around the county for an emergency meeting in a church basement in National City to see how they could use each other's strengths to better protect against unlawful mass deportations and other harassment. It was clear that the scope of the threat not just to the community but to fundamental American values meant no one group could do the work alone.

"We convened everybody and their mother," says Chávez-Peterson. "We invited every organization in San Diego that we knew wanted to protect or serve immigrants—other advocacy

**“NOT A SINGLE ORGANIZATION
IN THE REGION CAN
DO THIS WORK ALONE.”**

Clockwise from left: SDRRN collaborators (from left to right) Dinora Reyna-Gutierrez, Kate Clark, and Norma Chávez-Peterson convene at the shelter. Network volunteers prepare to load packed lunches. Our Lady of Guadalupe Church San Diego is the site of one of the network's first shelters.



organizations, the teachers union, the school district, the community clinic, the legal service providers. We even invited the Aztec dance groups because they're a community, they have relationships, they're trusted."

In early 2018, SDRRN launched a 24-hour hotline where the community could get information about immigrants' rights, report illegal workplace raids and arrests, and get connected to legal resources and other emergency assistance. It was tested immediately. In March, on the eve of a visit to the area by President Trump, U.S. Immigration and Customs Enforcement (ICE) agents unlawfully swept up more than 100 undocumented immigrants on their way to work, and SDRRN was able to dispatch immigration attorneys to the scene immediately. In another case, a family was separated when ICE picked up the mother and stood in wait for the father at the family's home. An administrator at one of their children's schools called the SDRRN hotline, and volunteers were dispatched to pick up the father so he could make arrangements for his children before reporting to ICE. All told, the network saved hundreds of people from deportation.

"That was at the heart of the initial phase of rapid response," says Dinora Reyna-Gutierrez, executive director of the San Diego Organizing Project, a multifaith network representing 29 congregations. "To create our own community that would protect and prevent unlawful deportations and separations of family."

ICE was detaining and deporting record numbers of people using unconstitutional tactics that bypassed the right to a fair hearing in court and ignored individual circumstances. So as Chávez-Peterson created a platform for power building across the county, direct service providers would flag abuses they saw on the ground so the ACLU could explore potential litigation, communicate with lawmakers, and develop effective advocacy strategies. One example of this reporting resulted in the ACLU filing administrative complaints about the mistreatment of pregnant women in Customs and Border Protection (CBP) stations and ports of entry, which led to Speaker Nancy Pelosi calling for an investigation. It's just one of scores of legal actions the ACLU filed nationwide to protect immigrants' rights during the Trump years.

That spring, when the Department of Justice's unconscionable family separation policy moved into its "zero tolerance" phase—U.S. attorneys' offices along the southwest border were directed to prosecute 100 percent of cases involving entry without authorization, a step no previous administration of any party had ever taken—the ACLU ran point for triaging cases reported by SDRRN members that involved family separation. The ACLU brought a successful lawsuit, *Ms. L v. ICE*, against the barbaric practice and later convened a steering committee that has independently located many of the families. Of the more than 5,500 children separated from their parents since 2017, the ACLU has reunited all but 400 or so. The ACLU continues to pressure the Biden administration's family reunification task force to both repair the damage of family separation and ensure it never happens again.

"We were really building out a system where each organization can do what they do best," says Chávez-Peterson, "but do it collaboratively so we could maximize our impact and protect as many people as possible."

By the fall of 2018, new policies and pressures forced SDRRN to pivot to the unfolding situation at the border. In late October, the Department of Homeland Security (DHS) abruptly ended the "safe release" policy by which it had traditionally helped asylum seekers contact family and reach their final destinations, where they waited for their claims to be heard. Less than 24 hours later, late on a Friday night, a local resident phoned the network



When the Department of Homeland Security abruptly ended its “safe release” policy in 2018, asylum seekers were dropped at the Santa Fe Depot in downtown San Diego, above, with no money or support. SDRRN stepped in to house them.

hotline to say that more than 40 people had been dropped at the Santa Fe Depot train station downtown with no money, support, or ability to travel. Jewish Family Service of San Diego, one of the network’s core partners, immediately set up an emergency shelter at Our Lady of Guadalupe Church in the Barrio Logan neighborhood to house them.

Over the next three months, SDRRN cared for 5,000 people at the respite shelter, which was designed for short-term care since 98 percent of those coming through the region have destinations outside San Diego County. The network had effectively become California’s first responder to the chaos unleashed by the Trump administration’s policies, which now involved dumping thousands of migrant families and individuals onto the sidewalks of the state’s border communities.

“We’re a large organization,” says Kate Clark, senior director of immigration services at Jewish Family Service and an immigration attorney, “and with the reputation of the network, there was confidence in the community that we were filling a critical gap. It inspired others to step in too.”

The shelter has since moved to half a dozen locations, including an old highway patrol station for which the ACLU helped broker a lease from the state for a dollar. Right after moving into that space in early 2020, however, the coronavirus presented a new set of challenges and forced another major pivot for the network.

Pandemic protocols and the Trump administration’s invocation of Section 265 of U.S. Code Title 42—which gives CBP agents the authority to expel migrants and asylum seekers for public health reasons—meant volume at the shelter slowed to a trickle. President Biden has kept Title 42 in place despite an ACLU class action suit to end it, though

small adjustments have been made to cease the expulsion of unaccompanied minors and make transfers more humane. As of May, the ACLU had brokered a deal for several hundred immigrants like Reyes to enter the U.S. under humanitarian parole each day.

With state support, in June 2020 SDRRN shifted its shelter services to house asylum seekers and immigrants in individual hotel rooms. In collaboration with county health entities, the network continued to prioritize public health—shelter guests receive COVID-19 testing, get health screenings, and quarantine before being released for travel.

With the arrival of the Biden administration in January 2021, it was time for SDRRN to pivot yet again. Two years earlier, the Trump administration had implemented the Migrant Protection Protocols, aka the Remain in Mexico program, which resulted in approximately 68,000 asylum seekers being removed from the United States to Mexico to await their stateside court cases, a dramatic change in policy that forced many onto the streets of Tijuana, sometimes for years. The ACLU litigated the policy fiercely. In January 2021, President Biden halted the policy, and small groups of asylum seekers with active immigration court cases were once again allowed entry and limited processing. In June, MPP was finally rescinded altogether.

By then, the relationships and infrastructure created by SDRRN were integral to the safe arrival and sheltering of the first asylum seekers allowed to enter the country. Shelter numbers increased again, from 144 individuals in January 2021 to more than 2,000 in March. By mid-May, the shelter services were caring for more than 700 individuals a day, including hundreds of children, and providing 6,500 meals a week.

Without SDRRN’s services, these individuals and families would either be referred for long-term detention or abandoned on the street, adding to the city’s unhoused population. As it stands, the network’s sheltering services are now scaled enough to handle anyone released from any of the San Diego stations. The numbers will only increase as President Biden further restores more humane policies, and as vaccinations proliferate and pandemic restrictions ease.

While President Biden has curtailed immigration enforcement and DHS is reorienting staff and resources, the United States is still expelling far too many asylum seekers. Civil liberties and constitutional issues are perpetually at stake, but it’s about more than immigrants’ rights. The country remains in desperate need of a sustainable system that adheres to the



Above, SDRRN arranges air travel for asylum seekers to reach their final destinations, where they await court hearings for their claims. At right, one family (from left to right), Fernando, Evelin, and Maritza, speaks with Peled at the San Diego International Airport.

law and ensures dignity, safety, and respect. The success of SDRRN charts a path toward rebuilding a humane asylum and immigration system with custody-free processing. What is often labeled a “crisis” at the border is simply the stubborn refusal of local, state, and federal government to provide the necessary resources and coordination.

“The broader San Diego community has learned a lot about what it means to be a border town,” says Reyna-Gutierrez. “Not a single organization in the region can do this work alone.”

For the ACLU, forming SDRRN has highlighted the critical role it plays in the community beyond litigation. The ACLU has been instrumental in bridging community partnerships, leveraging relationships with state and county elected officials, and leading the political advocacy that resulted in the \$25 million Immigration Rapid Response Program Governor Gavin Newsom built into his 2019 budget—\$2.2 million of which helped build out the SDRRN shelter at a critical moment.


WHAT IS OFTEN LABELED A “CRISIS” AT THE BORDER IS THE REFUSAL OF GOVERNMENT TO PROVIDE NECESSARY RESOURCES.



“We’re continuing to play that role in terms of pushing the federal government, the county and state government to allocate adequate resources,” says Chávez-Peterson. “Because there’s no way that nonprofits are going to carry the weight of it. It’s not sustainable. This is a government responsibility.”

SDRRN’s leaders insist that the solutions they were forced to design on the fly must be adapted and extended for the realities of the future—conditions for those like Reyes and her family haven’t suddenly resolved just because Trump is no longer president. “There may have been a change of administration, but it’s going to take a significant amount of time to undo the horrific policies that were rolled out over the last administration—and prior administrations, frankly,” says Clark.

“We’re far from creating an immigration or asylum system that lives up to our ideals,” says Chávez-Peterson. “There’s still work that needs to be done to ensure that there are adequate public resources and partnerships. We need to rebuild this country’s asylum and immigration system so it lives up to our values.” ■




**A deeper investigation into
the history of racial covenants
uncovers their long shadow across
our segregated cities and towns.**

**They contribute to an insidious
campaign of housing apartheid
more than a century in the making.**

BY ANITA LITTLE

ILLUSTRATIONS BY CRISTIANA COUCEIRO

Buried Truths



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n Oberlin, Louisiana, a small town of less than 2,000 people about an hour outside of Lafayette, an unassuming cemetery became the subject of national headlines after it refused a burial plot for a local resident.

That person was Darrell “Soul” Semien, and he was a Black man who had served the community for 15 years as a law enforcement officer before dying at 55 after being diagnosed with cancer. A representative of the Oaklin Springs Cemetery told his widow, Karla Semien, that the cemetery was whites only, pointing to a clause in the burial contract that mandated “the right of burial of the remains of white human beings.”

“It was just so much a slap in the face, a punch in the gut. It was just belittling him. You know, that we can’t bury him because he’s Black,” Karla Semien would later tell reporters about the incident.

You might have assumed the above story was from a historical text, but you’d be wrong. This happened in 2021. And it’s not uncommon. The Semien case is only unique in the fact that the family spoke out about the incident, and the ACLU of Louisiana caught wind of it.

The ACLU swiftly issued a letter to the board of Oaklin Springs Cemetery demanding that it revise its unconstitutional bylaws, which dated back more than 70 years to the cemetery’s founding. In response, the business confirmed that it had removed all race-based restrictions from its burial contracts and unanimously

voted to destroy all previous copies that included the “whites only” covenant. The employee who refused a plot to the family was also relieved of her duties.

The president of the cemetery’s board apologized, stating he had been unaware of the racist language in the contracts and offered up one of his own plots to the Semien family. They refused, deciding Darrell Semien would no longer be at peace there.

“What happened here is not an isolated incident,” says Alanah Odoms, executive director of the ACLU of Louisiana, one of a dozen affiliates that make up the ACLU’s Southern Collective, an organizational effort to build Black political power in the South and dismantle structural racism in the region (see sidebar). “We suspect this is the tip of the iceberg.”

With racial restrictions tucked away in property deeds across the country, one doesn’t have to search too long to find segregationist language designed to bar Black people from white spaces. Racial covenant clauses made it against the law to sell

“The discrimination that stunted Black economic and political progress lives with us today.”

land or property—in this case, a burial plot—to anyone of a non-white race.

Covenants rose to popularity in the early 20th century after the Supreme Court ruled in 1917 that outright city-wide segregation ordinances violated the 14th Amendment. White property owners and real estate developers, eager to find other methods to preserve “neighborhood stability,” soon turned to racial covenants. Included in private deeds that homeowners contractually agreed to, they were out of reach from federal and local laws.

As racial covenants proliferated across the country, white neighborhoods were kept white and integrated areas slowly became segregated again as people of color were systemically pushed out of homeownership. It in many ways cleared the path for the redlining that would come later when mortgage lenders would deny loans or offer only high-interest loans to applicants based on the racial demographics of where they lived.

The 1948 Supreme Court case *Shelley v. Kraemer* involved a lawsuit a white family brought against a Black family that purchased a home in a St. Louis neighborhood that had a restrictive covenant barring Black people and Asian Americans from occupying the property. A lower court enforced the covenant, determining that it covered a private action and didn’t violate the equal protection clause of the 14th Amendment. The ACLU’s amicus brief in *Shelley* argued that the lower court enforcing the covenant turned the issue into a state

Investing in the South

As part of a multiyear racial justice agenda, the ACLU is investing in the people and region most impacted by centuries of regressive policies: the South.

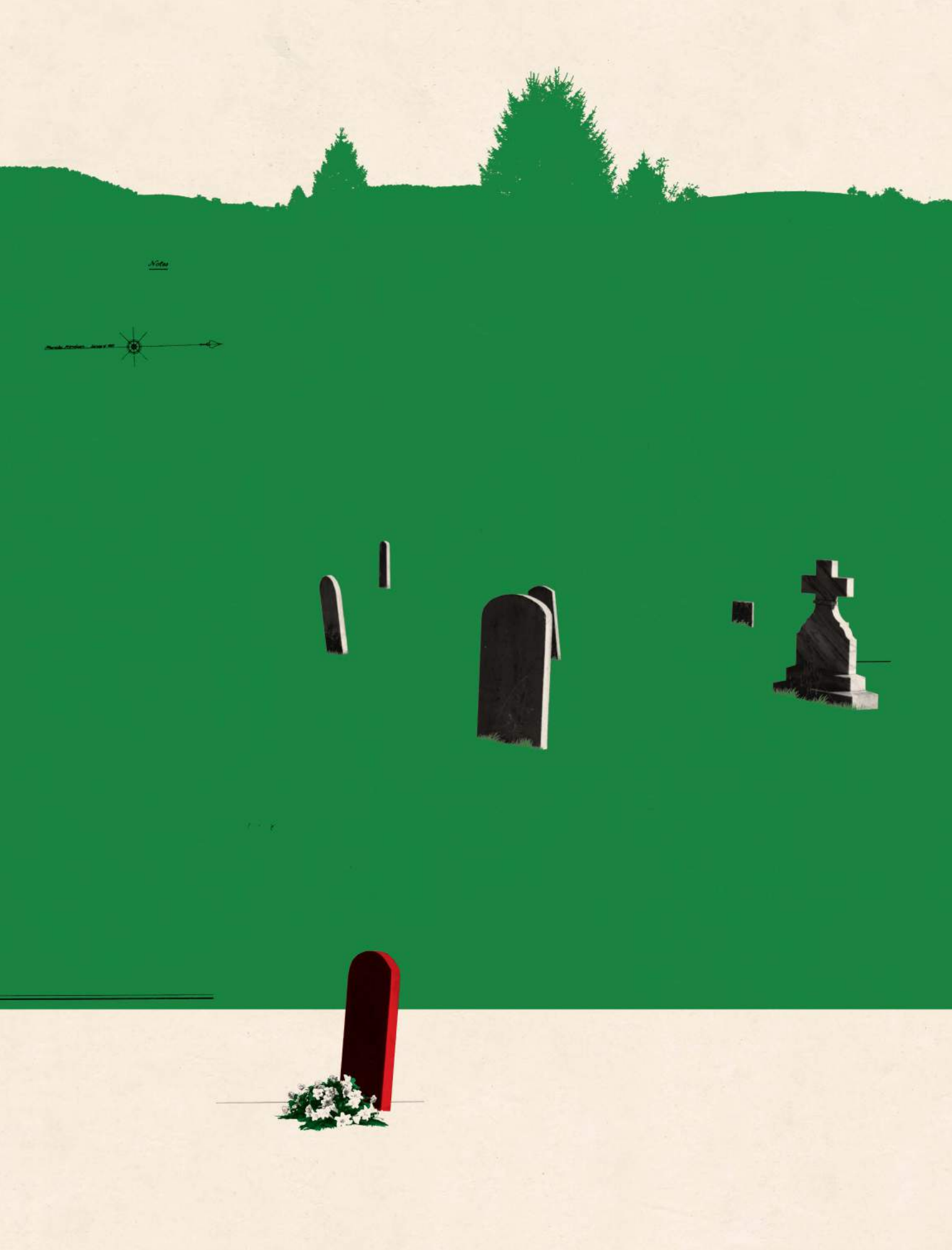
The Southern Collective is a collaborative effort of 12 ACLU affiliates in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North

Carolina, South Carolina, Tennessee, Virginia, and West Virginia—states with remarkable histories of civil rights battles. The collective works on three priority issues: strengthening voting rights, ensuring reproductive justice in communities of color, and building support for reparations.

“From Reconstruction to recent attacks on democracy, there is and has always been political backlash in retaliation to the advancement of marginalized people—particularly in the Deep South,” says JaTaune Bosby, executive director of the ACLU of Alabama. “Those

rooted in on-the-ground organizing and advocacy work know that investment in people who live and fight in the South will lead to results that reverberate across the nation.”

Learn more about how the ACLU is effecting change in the South at aclu.org/southerncollective.



matter, not a private one. The Supreme Court eventually agreed, stating, “[t]he framers of the Fourteenth Amendment regarded equality in property rights as ‘an essential pre-condition to the realization of other basic civil rights and liberties which the Amendment was intended to guarantee.’” Covenants still remain on the books in many places, but this decision made covenants unenforceable.

Someone in 2021 then might ask: Why are these toothless covenants, relics from a bygone era, of so much concern?

“Our society is still very much segregated by race in our communities, our churches, our jobs, our schools, and even our cemeteries,” says Nora Ahmed, the ACLU of Louisiana’s legal director. “And we’ve been led to believe that it’s just because like goes with like. We don’t realize that it’s been deliberately structured that way, and that it emanated from these racially discriminatory covenants.”

That this language exists in so many places, even if it’s not enforced, also acts as a signal, a reminder that this country and its promises were meant for only a select few. Removing these covenants from documents would be simple, and the lack of organized effort

to do so communicates the racism that vigorously thrives beneath the veneer of changed laws.

And the impact of these covenants goes far beyond just the creation of white neighborhoods and Black neighborhoods. There was and still is a very material cost to racially restrictive covenants. One of the most common forms of intergenerational wealth transfer is through the passing down of homes. This is how wealth begets more wealth as home values incrementally increase. For the majority of American families, home equity makes up the lion’s share of their wealth.

But covenants effectively shut Black and other families of color out of that dream. Inequities in homeownership rates are now a major driver of the racial wealth gap.

And it’s a disparity that’s hardly progressed with the passage of time. Soon before COVID-19 would ravage the globe, Black homeownership was already at its lowest level since 1970, only 40.6 percent. And the fallout of the pandemic set Black and Latinx communities even further back, erasing gains that took years to build.

The economic consequences of covenants and other forms of housing discrimination have been both staggering and persistent. According to a Federal Reserve Board 2019 survey, the median white household has \$188,200 in wealth, while the median Black family only has \$24,100 and the median Latinx family has just \$36,100.

“The discrimination that stunted Black economic and political progress lives with us today in the racial wealth gap,” says Rakim Brooks, senior campaign strategist at the ACLU. Brooks is leading the ACLU’s Systemic Equality agenda, which includes specific policy requests of Congress and the Biden-Harris administration. The agenda’s priorities include closing the racial wealth gap and seeking reconciliation for our country’s discriminatory history in housing and other aspects of public life (see sidebar).

“We know that white households are much more likely to inherit wealth from their parents, while Black households are more likely to have to financially support their parents,” says Jacob Faber, associate professor of sociology and public service at New York University, who has done extensive research on restrictive covenants. “That’s directly tied to the ways that we excluded Blacks from accumulating home equity through housing policies, including the encouragement of racial covenants.”

Faber’s work builds off seminal books by Melvin Oliver, *Black Wealth/White Wealth: A New Perspective on Racial Inequality*, and by Mehrsa Baradaran, *The Color of Money: Black Banks and the Racial Wealth Gap*. The growing scholarship on the racial wealth gap has created a new push to find strategies to alter centuries of systemic discrimination.

“The connection is just so clear when you look at history,” says Odoms. “The past is very much present.” So present that you can draw a map of it.

Since 2016, a team of researchers, geographers, and designers at the University of Minnesota’s Mapping Prejudice Project have been working to unearth a willingly forgotten history and provide factual support to what Black



Achieving Systemic Equality

The ways in which racism and discrimination enter the lives of Black people, Indigenous people, and people of color have systemic roots. Therefore, our solution must be systemic as well.

The ACLU's Systemic Equality agenda, a multiyear racial justice campaign, is

building on a century of civil rights advocacy to dismantle America's legacy of white supremacy through new legislation and policy reform.

One of its most urgent pillars? Closing the racial wealth gap and eliminating the differences in opportunity that got us here.

Policy analysts at the ACLU have built a road map for change that includes canceling up to \$50,000 of student debt for eligible borrowers, decreasing the dependency on costly payday loans and check-cashing services through access to postal banking,

and lifting half of Black and Latinx children out of poverty by making the child tax credit permanent.

A more equitable society is possible, but only if we fight on every front.

To find out more about our vision and how you can help, visit aclu.org/equalitynow.

and Brown communities have known for generations. They use digital mapping software and interactive visualization tools to show how covenants shaped the racial landscape of Minneapolis.

"Our job is to make it clear that this didn't happen accidentally. We're building that base map of dispossession to show that everything since then has compounded upon that pattern," says Kirsten Delegard, a co-founder of the Mapping Prejudice Project and a public historian.

"Now that we can use big data, we can really quantify what the impact of racial covenants has been on intergenerational wealth, residential housing patterns, and property values. It allows us to understand much more than if we just looked at them as a piece of isolated text in this one deed."

In Minneapolis, where Mapping Prejudice is based and where widespread civil unrest occurred after the murder of George Floyd, the homeownership gap between white and Black residents is more than 50 percent. Only 25 percent of Black families own their homes compared to 75 percent of white families.

A common hurdle researchers face in gathering this important property data is access to public records, a roadblock Delegard has encountered repeatedly.

"We are running up on a reluctance by some public officials around the country to allow us access to public records,"

she says. "That has emerged as the biggest barrier to expanding this work, not staffing, not the technology, not even the funding."

The ACLU has also received pushback to the work it's doing in Louisiana and throughout the South to uproot racial covenants and their negative effects. Shortly after the ACLU of Louisiana's letter successfully resulted in Oaklin Springs Cemetery confirming that it had revised its whites-only bylaws, the affiliate was a recipient of a letter itself.

A white individual who owns a burial plot in the cemetery threatened to file a legal complaint stating that with its actions, the ACLU was violating his right to be interred in a whites-only cemetery as per the burial contract he signed. The plaintiff claims he is not racist, but that he has "preferences" that include being "laid to rest in a white cemetery."

To that, Odoms says, "Bring it on. We'd be very happy to litigate that case."

Knowing the Semien case is not an outlier, the ACLU of Louisiana is urging all local institutions to review their own founding documents and void any racist policies or clauses that may still be lingering in the text. They're also expanding their staff this summer, bringing on a lawyer whose role will focus specifically on conducting an analysis of restrictive covenants in the state.

"But we're not studying restrictive covenants for the sake of studying restrictive covenants, as fascinating of an exercise that is," says Ahmed.

Ultimately, the data collected will be used to better lobby against discriminatory policies that keep people of color from purchasing homes. Fair housing

is a core tenet of the ACLU's Systemic Equality agenda, and last year, the organization mounted a federal lawsuit against the U.S. Department of Housing and Urban Development for its Trump-era rollbacks of housing protections.

This work also supports the case for reparations for economic injustices enacted against Black Americans since the end of slavery. H.R. 40, a bill that the ACLU supports, would create a commission to analyze the lasting impacts of slavery and make recommendations to Congress for reparations. Introduced in every congressional session since 1989, the bill made it past a committee vote for the first time in its history this year.

"We cannot repair harms that we have not fully diagnosed," says Brooks. "Our history has shown us that it's not enough to take racist policies off the books if we are going to achieve true justice. We need systemic solutions."

Imagination is a word that often comes up when talking about progress and reform. That it takes imagination to dream up a better society, a country that's fair and livable for everyone. But Odoms believes that we actually don't have to imagine too hard.

"I think we sometimes feel we have to imagine something that doesn't currently exist in order for Black and Brown people to have good lives. But we already know what that looks like," says Odoms. "Well-heeled white communities have good schools, grocery stores with healthy food, and jobs where they can afford to buy that food. The model we want exists; it just exists for one segment of society. We need to expand it to those who have been left out from it." ■

"We cannot repair harms that we have not fully diagnosed."

Attorney Eric Williams helped pass a surveillance law in Detroit this year.

The ACLU provides communities across the country with model legislation to curtail police surveillance technology and tackle inequities in law enforcement. Meet some of the local activists taking back their neighborhoods.

BY YASMIN TAYAG

PHOTOGRAPHS BY CAYCE CLIFFORD

COMMUNITY



In 2016, the ACLU launched Community Control Over Police Surveillance (CCOPS), which provides communities with model legislation—designed to ensure complete transparency on all surveillance technology decisions—and to shift control over those decisions from the police to the people and their elected representatives. The ACLU created CCOPS as a decentralized program, recognizing that the people most impacted by surveillance should have the most influence over surveillance decisions. In just five years, the ACLU and its affiliates, local CCOPS coalitions, and activists have passed CCOPS laws in 21 U.S. cities, affecting more than 17 million people.

IN 2020, AS PROTESTS for Black lives erupted across the country, activists in the streets looked up and frequently saw drones circling overhead like buzzards. It was impossible to tell who had deployed them. In Tempe, Arizona, local officials admitted the drones belonged to law enforcement. But in other places, such as New York City, the police resisted disclosing its surveillance efforts.

The increasing use of surveillance technologies by the police, especially against communities of color, has created oppressive environments in which everyone is treated like a criminal or an enemy of the state. Law enforcement agencies across the country have quietly and rapidly acquired drones and other advanced surveillance technologies without any community input or oversight, making it impossible to hold them accountable for abuse.

In May, the Harvard Kennedy School of Government's Belfer Center recognized the ACLU's CCOPS program as one of the top three projects in the world focused on technology that serves the public good. At its core, CCOPS is rooted in racial justice. Police surveillance technologies conceal and amplify existing inequities in law enforcement, such as over-policing and elevated arrests of Black and Latinx people for minor infractions. In cities where model legislation exists, impacted communities now have a chance to review and reject the deployment of surveillance technologies in their own neighborhoods.

Here we profile six activists who devote themselves to this work and empowering their communities.

WATCH



ERIC WILLIAMS

DETROIT, MICHIGAN

IN THE EARLY '90S, Eric Williams was evacuated from a restaurant in London because of a bomb threat. Armed struggles related to the conflict in Northern Ireland were ongoing, and Williams, a native Detroiter, was a graduate student at Cambridge University. At the time, he says, the need for surveillance in London didn't seem too far-fetched. But on subsequent visits to London after he moved back to America, Williams grew increasingly uneasy about the explosion of CCTV in the United Kingdom. Suddenly, there were cameras everywhere.

"You began to see what a Western democratic surveillance state looks like," says Williams, a managing attorney in the Detroit Justice Center's

Economic Equity Practice and a volunteer lawyer with the ACLU of Michigan. "The idea of that emerging in Detroit was frightening."

In 2016, his fears came true: Detroit launched Project Green Light, an initiative of the police department that installs video cameras, with the owner's permission, at local businesses and organizations. The cameras are monitored live by law enforcement, creating a massive surveillance system.

Williams and other activists have been quick to point out its potential for abuse and racial discrimination. Already, it has expanded from a handful of cameras in eight gas stations to a network of more than 700 locations across the city.

Facial recognition was added to the system in 2017, allowing law enforcement to pull suggested identities to match the faces in recordings. The technology notoriously misidentifies people of color at alarming rates. Last year, Detroit resident Robert Williams (no relation) was wrongfully arrested

because of a false face recognition. The ACLU is suing the Detroit Police Department on his behalf.

To Eric Williams, Detroit is a city that has long championed workers' rights, unions, civil rights, and economic and racial justice. That's why he has been so involved in opposing Project Green Light and with the effort to pass a Community Input Over Government Surveillance (CIOGS) ordinance, Detroit's version of CCOPS. For a city "where speaking truth to power is the de facto posture," to just "go quietly is really disturbing, particularly when it's not like you have to imagine what police abuse of this system would be," he says.

In late May, the Detroit City Council held its final public hearing on CIOGS, and the ordinance passed unanimously, becoming the 21st city to adopt a CCOPS law.

"It's no accident that my job and this work, private practice, and volunteer work dovetail," says Williams. "I structured my life like that. And these are the things that are important."

In just five years, the ACLU and activists have passed police surveillance laws in 21 cities.

In 2016, Detroit launched Project Green Light, a massive police surveillance system.



SABRINA BARROSO

**BOSTON,
MASSACHUSETTS**

IN 2017, an East Boston High School student was jailed and then deported to El Salvador after federal agents accessed a report written about him by the police at Boston Public Schools (BPS). Officers filed the report because the student was involved in a nonviolent lunchroom scuffle. They noted that he was a possible “gang associate.”

Sabrina Barroso is a lead organizer at the Student Immigration Movement (SIM), an immigrant, youth-led organization supporting undocumented people. She was shocked that information gathered at Boston’s schools was accessed by U.S. Immigration and Customs Enforcement.

“It showed us the different layers of information sharing,” says Barroso, now 22. She’s been fighting for greater safeguards for students ever since, partnering with the ACLU of Massachusetts to help pass a CCOPS ordinance in Boston, which would protect undocumented students from being surveilled in the first place.

Coming from a mixed-status family, Barroso knows what it’s like to live in

fear of being surveilled and deported. She recalls a moment in her childhood where she was sick with a high fever, but the family member she lived with was too afraid to drive her to the hospital because she was undocumented and had no driver’s license. “I just remember lots of different situations in my life where status was a clear obstacle for us,” she says.

When she was 14, she went with her mother to an advocacy meeting about a Massachusetts bill aimed at making driver’s licenses available to everyone, regardless of their immigration status. A member of SIM approached her with an invitation to the organization’s annual retreat. There, for the first time, she heard people speak freely about

their undocumented status. After a lifetime spent tiptoeing around her family’s situation, she says, the moment was life-changing.

After becoming a SIM staff member in 2017, she started to work with a coalition of organizations challenging the power of information sharing between BPS, the Boston Police Department, and federal agencies.

Though Boston’s city council is currently in flux, Barroso is hopeful that it will soon pass the CCOPS ordinance, as Cambridge, Lawrence, and Somerville have already done.

“We know that this is setting a precedent, and that all other towns and cities will have to follow that precedent,” she adds. “And I’m proud of that.”



KENNEDY MOORE

ST. LOUIS, MISSOURI

ASK KENNEDY MOORE what drives her work as an organizer, and she'll tell you about womanism. Also known as Black feminism, it was founded by the celebrated novelist and poet Alice Walker in response to feminist movements that centered white women.

As a reproductive freedom organizer with NARAL Pro-Choice Missouri and a public policy graduate student at the University of Missouri-St. Louis, Moore strives to embody womanism by centering Black women and queer people in her work. Through a 2020 fellowship with Action St. Louis, a grassroots racial justice organization, she interned at the ACLU of Missouri and joined its efforts to pass a CCOPS ordinance in St. Louis.

Recently, her work intersected with anti-surveillance efforts in the city, where a bill permitting spy planes to fly over the city was introduced at the end of 2020. The bill proposes a contract with Persistent Surveillance Systems, a company that uses an update on technology originally developed for the Air Force. On February 4, the Rules Committee unanimously voted not to continue their contract with the company. A similar contract with the city of Baltimore was also terminated after pushback from activists.



Moore has attended a number of public hearings and testified in January in opposition to the so-called spy planes bill. She often speaks about the unexpected ways that surveillance impacts people who go to reproductive health care clinics. In 2019, Dr. Randall Williams, then director of the Missouri Department of Health and Senior Services, admitted to keeping a spreadsheet of the menstrual cycles of women who had received abortions at Planned Parenthood.

“Our bodies are being surveilled in the state, by the state, and now we have the threat looming that the city is going

to be surveilling us, too,” says Moore. “Where is the confidentiality? Can I go to my local clinic? Can I even get an abortion in privacy?”

Lately, Moore's work has reminded her of her involvement with Concerned Student 1950, a University of Missouri activist group known for its 2015 protests against the school's tolerance of racial hostility. The most important things she took away from that experience, she says, were community and friendship. Through the community she built at the ACLU, she got involved with NARAL, Privacy Watch, and even the successful mayoral campaign of Tishaura Jones, who is an outspoken supporter of St. Louis' pending CCOPS legislation.

“I always remember at the base, it's about building community with people so that we can get these things done,” Moore says. “Get legislation passed and liberate ourselves.”

This year, St. Louis voted not to work with a company that uses technology developed by the Air Force.



ELLIS JACOBS

DAYTON AND
YELLOW SPRINGS, OHIO

AT THE END OF 2016, the annual New Year's Ball Drop in Yellow Springs, Ohio, turned chaotic when local police suddenly started driving through the crowd. Officers deployed a Taser, injuring an attendee. Residents of the village, dismayed at the unnecessary use of force, called the incident "horrifying," and it resulted in the resignation of the police chief.

Ellis Jacobs, a Yellow Springs resident and senior attorney with Advocates for Basic Legal Equality (ABLE), a public interest firm representing low-income groups and individuals, saw the moment as an opportunity to preemptively raise awareness about the use of surveillance technology by law enforcement.

"I thought, Well why don't we try to get out ahead of a problem that you can see looming on the horizon?" says Jacobs. While surveillance technology was not yet a problem in the village, its increasing availability made him uncomfortable. Already, the police had installed cruiser cams on its vehicles.

Meeting little resistance and with support from the ACLU, in 2018 the village council passed an ordinance preventing local police from using surveillance technologies without the community's knowledge and consent.

It was good training for the challenges of passing a similar ordinance in nearby Dayton, Ohio, Jacobs' hometown. Having watched Dayton suffer the impacts of deindustrialization and predatory lending for decades, he says the town is now bouncing back. Concerns about equality, however, remain.

In 2020, Dayton's Latinx community reached out to Jacobs' ABLE colleague Kathleen Kersh, concerned that Dayton police had installed 30 license plate readers in their Twin Towers neighborhood without their consent.

They were worried about how the cameras worked, what would be done with the data they gathered, and who it was going to be shared with.

Around the same time, members of Dayton's Black-led organizations contacted Jacobs about the city's plans to renew its contract with ShotSpotter, a company that owns and operates a gunshot-detection system that alerts police dispatchers to areas where shots are fired.

The common concerns of Dayton's Latinx and Black communities led them to form a coalition, represented by Jacobs and Kersh, and push for a CCOPS ordinance. Passing CCOPS in Dayton took months. But in May, the city passed the ordinance with unanimous approval, becoming CCOPS' 20th city.

Jacobs, who is ready in case nearby Toledo, Columbus, and Cleveland want to follow suit, attributes the success in Dayton to the work of the coalition members. "The city administration looked at this coalition and said, 'Well, we haven't really seen that before,'" says Jacobs. "It brought some power. And the folks in the coalition really appreciated it."

The Right to Protest

Last fall, **Nick Navarro** attended a protest against the Philadelphia police shooting of Walter Wallace Jr. that culminated with a tense NYPD standoff at New York's City Hall. Soon after, the 19-year-old college student became a police protest monitor for the New York Civil Liberties Union (NYCLU), learning to recognize and document police intimidation tactics and assault.

Since June 2020, the NYCLU has trained more than 200 protest monitors and compiled footage from 60 protests. In October, the affiliate filed a lawsuit against the NYPD and Mayor Bill de Blasio for police brutality. The monitors' footage played a key role.

At a Stonewall protest earlier this year, Navarro witnessed the violence firsthand. "The police were just ripping people out of the crowd," Navarro says.

This heightened brutality is just one of many recent efforts to suppress protesters' rights nationwide. First Amendment rights are also at grave risk in statehouses. In 2021 alone, legislators have introduced more than 200 anti-protest bills in 45 states. The legislation often includes vague language that puts all peaceful protesters at risk of criminalization, punishes online criticism of a police officer or elected official, and grants immunity to drivers who hit protesters in the street.

Across the country, the ACLU has been working to block anti-protest bills from becoming law, and many of the bills have died or stalled. One such bill, H.B. 2309 in Arizona, would charge a protester with a felony even if they do not commit an act of violence or cause property damage. Earlier this year, the ACLU ran digital ads asking legislators to oppose the bill, blanketed radio stations, and sent text messages to mobilize ACLU activists, urging 5 to 10 calls per day to elected officials. As of June, H.B. 2309 is no longer on the fast track.

The ACLU of Florida is working closely with its partners to challenge H.B. 1, which became law in April and imposes excessive penalties as a way to constrict Florida protesters' speech rights. The bill grants the police broad discretion in deciding who could be arrested and charged with a third-degree felony at a protest. In Florida, a felony charge strips people of their voting rights.

This year, similar anti-protest bills arose in states such as Arkansas, Iowa, and North Carolina. When they resurface in the 2022 state legislative sessions, the ACLU is ready to challenge them—and protect the First Amendment right to protest.

Visit [aclu.org/protest](https://www.aclu.org/protest) to learn more about how you can protect protesters' rights in your state.





Sameena Usman and the ACLU of Northern California were instrumental in passing the country's first surveillance ordinance in 2016.



SAMEENA USMAN

SANTA CLARA,
CALIFORNIA

YEARS AGO, Bay Area resident Sameena Usman was nursing her newborn in the early-morning hours when she saw a van pull up outside her home. A worker jumped out, fiddled with something behind the house, and drove away.

The truck appeared to be an electrician's, but the homeowners' association said they didn't let such vehicles in the neighborhood outside of normal business hours. "That really got me concerned," says Usman, senior government relations coordinator for the

Council for American Islamic Relations (CAIR).

Usman is well aware of law enforcement's long history of surveilling marginalized groups, including Muslims in the aftermath of 9/11. As a high schooler, she wanted to join CAIR precisely because of its work representing Muslims facing violations of their civil liberties. "I wanted to make sure the community was protected," Usman says.

In 2014, the ACLU of Northern California launched a campaign to curb secret surveillance and reached out to Usman and CAIR for help. At issue was the San Jose City Council's approval of a police request to acquire a surveillance drone without any community knowledge. Usman, the ACLU, and a coalition of nine groups took their fight to the county level. Usman raised awareness about surveillance with the Muslim community, encouraging them to push their legislators on the issue. In June 2016, Santa Clara County passed the nation's first ordinance instituting full transparency on all surveillance decisions.

The work was groundbreaking. Not only had such an ordinance never been passed, but it also set the stage for the launch of CCOPS in September 2016. Berkeley, Davis, Oakland, Palo Alto, San Diego, and even the BART transit system adopted similar ordinances with Usman's advocacy. In 2019, San Francisco followed suit and added a ban on government use of facial recognition technology—the first of its kind in any U.S. city.

Usman, who hasn't let the pandemic slow her down, is determined to see that these ordinances are upheld. The ACLU sued the city of San Francisco last year after its police department surveilled Black Lives Matter protesters, violating the 2019 ordinance.

Looking ahead, she's hopeful about winning over San Jose, where plans to transform into a "smart city" necessitate an enforceable privacy policy for citizens, and seeing other cities adopt CCOPS legislation as well.

"There are areas around the country that are modeling our ordinances," Usman says. "It's good to know that we're able to set the trend for them." ■



At its core, the ACLU's CCOPS program is rooted in racial justice. Police surveillance technologies conceal and amplify existing inequities.





VOICES

STOP ASIAN HATE

United Against Anti-Asian Racism

**The ACLU is in solidarity
with AAPI communities
amid increasing attacks.**

According to Stop AAPI Hate, a national coalition addressing anti-Asian racism, there were 6,603 hate incidents reported between March 2020 and March 2021. This discrimination against Asian American and Pacific Islander (AAPI) communities during the pandemic is history repeating itself: America has a record of racist scapegoating, including in San Francisco in 1900, when fears of a bubonic plague outbreak sparked calls to set Chinatown on fire. To protect AAPI elders, who face escalating violence, local and state governments can support programs in which community members gather in shifts to escort them in public. Education systems play an important role too: The ACLU advocates full implementation of New York's Dignity for All Students Act, which safeguards students of color from harassment. —TOM VELLNER

Our Shared Responsibility

A new documentary features Jeffery Robinson's groundbreaking talk on racism.

The award-winning documentary *Who We Are: A Chronicle of Racism in America* tells the unvarnished story of our ongoing national tragedy with profound yet intimate scope. Directed with urgency by filmmakers Emily and Sarah Kunstler (*William Kunstler: Disturbing the Universe*), the film centers on former ACLU Deputy Legal Director Jeffery Robinson, who has spent 10 years delivering a powerful, deeply researched presentation to audiences around the country as a way to “correct the narrative about white supremacy and racism in America.” Combining segments from his celebrated three-hour talk with archival footage, new interviews, and Robinson’s own gripping personal story, *Who We Are* is part of a wider movement for more truthful education in schools, institutions, and corporate offices—a reckoning that syncs with the ACLU’s Systemic Equality agenda, an initiative designed to eradicate racist policies that continue to harm Black and Indigenous people. In the film and in his work, Robinson invites each of us to interrogate how we contribute to our country’s racist legacy and what we’re willing to do to effect true change. —JAY A. FERNANDEZ

Who We Are: A Chronicle of Racism in America is coming to theaters this winter.

PHOTOGRAPH BY EMILY KUNSTLER

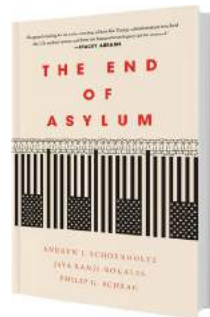


Jeffery Robinson visits a former lynching tree in Charleston, South Carolina.

Protect Speech on Race

The ACLU is confronting a nationwide attempt to censor discussions of race in the classroom.

Read more on our blog: aclu.org/criticalracetheory



An Imperfect System

In *The End of Asylum*, legal scholars and asylum experts Andrew I. Schoenholtz, Jaya Ramji-Nogales, and Philip G. Schrag present a brisk, accessible narrative of the country’s tenuous system of protection for asylum seekers and refugees. After passage of the Refugee Act of 1980, the imperfect system created to shelter those fleeing violence and persecution was sustained with bipartisan support—until the Trump administration eviscerated it. The authors provide a comprehensive account of this assault on our nation’s moral identity as well as a blueprint for rebuilding a more robust asylum infrastructure. Their detailed legal and policy guidance shows how Congress and the Biden administration can restore our commitment to people seeking protection by forming “a revamped asylum system that cannot be dismantled by an ill-intentioned executive branch.” —J.A.F.

Every year, more than 150,000 students of color, many with disabilities, are handcuffed, restrained, and arrested by police in schools. Artist Olivia Fields imagines schools shifting from places rife with punitive measures to spaces of true safety and support.



Amplifying Trans Justice

Actress and singer Peppermint spreads awareness about anti-trans state legislation.

NAME: Peppermint
LOCATION: New York
FOCUS: Transgender Justice

Peppermint, who was the first transgender woman to originate a principal role on Broadway with her performance in *Head Over Heels*, has always been passionate about justice.

In elementary school, Peppermint often got detention for being a “frequent talker.” After realizing that most of the other kids getting detention

were Black too—and their white peers weren’t being disciplined for the same behavior—she started a petition demanding the school stop unfairly punishing her and other students of color. That determination to call out injustice has only grown throughout her life.

As an actress, she says learning how to be direct and communicate has helped her stand up for what she believes in, which includes spreading awareness about the barrage

of anti-trans bills in 2021. More than 100 bills attacking trans people have been introduced across the country: Arkansas passed unprecedented legislation that criminalizes gender-affirming health care for trans youth, while states including Alabama, Mississippi, and Tennessee have signed bills banning trans students from school sports—based on inaccurate stereotypes about biology, athleticism, and gender.

“I’m using my platform to educate people and get the groundswell of empathy to pervade,” says Peppermint, who is now the ACLU’s Artist Ambassador for Transgender Justice. In that role, she’s encouraging people to speak truth to power and support groups that protect trans rights.

Peppermint’s calls to action draw attention to the atrocities affecting the trans community, especially the impact they have on Black women and girls.

“When it comes to the argument about transgender athletes, we end up fitting women and girls into these cookie-cutter-shaped bodies or ideas of what defines someone as a woman or girl. Then, anyone outside of that white cisgender beauty standard is up for scrutiny,” she says. “That’s one way we see how these anti-trans policies can affect cis women, especially cis Black women. Misogyny, transphobia, and racism intertwine.” —ELLY BELLE



Peppermint, pictured in New York, is the ACLU’s new Artist Ambassador for Transgender Justice.



Black Voters Matter co-founder LaTosha Brown speaks to supporters during a Louisiana bus tour in 2019.

Building Black Political Power

By LaTosha Brown

After Stacey Abrams' contentious loss in the 2018 race for governor of Georgia, the effort to thwart voter suppression in the state and mobilize Black voters ramped up. As a result, Black Georgians showed up to the polls in droves in 2020. One of the activists responsible is LaTosha Brown, co-founder of the Black Voters Matter Fund, a movement to expand voter access and build political power for Black Americans, particularly in the South. In April 2020, the ACLU filed a federal lawsuit on behalf of Black Voters Matter, challenging a Georgia poll tax. The following is an excerpt from LaTosha Brown's appearance on the ACLU's podcast, At Liberty.

I've worked in the South around power building for 27 years. Over two and a half decades, Cliff Albright, who co-founded Black Voters Matter, and I have used different strategies to support organizing work. In 2016, we created an organization to bring our best practices together. One way we would build power was by shifting the focal point. Instead of the focal

point being a candidate or political parties, we made the focal point the voter.

When we first started, for six months, we went around the back roads of seven states in the South. We would go to communities and say, "What are you facing right now? Tell us about the power dynamics." That listening informed our strategy. What we heard consistently is that people feel like they're exploited. Election after election, they're treated as if they're numbers, not that they matter. Instead of engaging in an argument to tell them how wrong they are, we affirm that we stand with them to change these things.

It's not a good experience to stand in line for five, six hours. In the Georgia primary last year, I remember crying in line when I knew on the other side of town, in predominantly white areas, they wouldn't have the same experience. It's traumatic. Part of our goal is not to organize people as if voting is the end, but that voting is the means to an end.

Part of our work is rooted in civic engagement and turning out the vote. Our larger work is to remind us of our own humanity. And to really touch those who have been marginalized, to remind them they have power, they have agency, and they have the right to determine who governs them and under what conditions.

Find weekly episodes of *At Liberty* wherever you get your podcasts or online at aclu.org/podcast.

Khaled El-Masri v. Tenet

December 6, 2005

Immediately following 9/11, the government began detaining hundreds of Muslim people, frequently on technical immigration violations. The ACLU filed suit that December, demanding the government disclose information on its dragnet sweep. This case was just the beginning—over the next several years, the ACLU increasingly focused its national security work on surveillance, torture, and racial and religious discrimination. On December 6, 2005, in a landmark lawsuit, the ACLU sued the CIA for abducting, torturing, and detaining an innocent man, Khaled El-Masri (below, center), who was released without ever being charged. Twenty years after 9/11, the ACLU continues to challenge the government when it violates civil liberties in the name of national security. —TOM VELLNER



PHOTOGRAPH BY AP PHOTO/STEVE HELBER



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