

Virginia Liberties

Newsletter of the American Civil Liberties Union of Virginia Spring 2008

Virginia ACLU Launches Three New Rights Programs

Projects to Focus on Rights of Voters, Immigrants, and Women

The ACLU of Virginia is initiating three ambitious new projects—one to reform Virginia's antiquated and racially discriminatory law on restoration of voting rights, another to put a full-time person on the ground to advocate for fair treatment of Virginia's immigrant population, and still another that will establish a permanent project to advocate for women's rights.

Launched in March with the hiring of a full-time director, the Virginia Voter Restoration Project aims to build a broad-based coalition of organizations to pressure legislators to amend the Virginia Constitution to allow felons who have completed their sentences to vote. Left in the wake of other states that have reformed their Jim Crow-era voter disenfranchisement laws, Virginia and Kentucky are now the only two states that permanently disenfranchise all felons, requiring an act of the Governor to restore the right to vote. There are approximately 300,000 disenfranchised voters in Virginia, and more than half of them are African-American.

The Voter Restoration Project is also conducting a campaign to educate Virginia voters about the unfairness of the

Virginia law and providing direct services to felons seeking to have their voting rights restored.

The Racial Justice/Immigrants' Rights Project should get off the ground soon. The Project, which will add a full-time immigrants' rights advocate to staff, grew out of our concerns about misguided local and state efforts to address immigration issues. Ostensibly targeting illegal immigrants, these laws actually discriminate against all immigrants, the vast majority of whom are lawfully present. The Project will also allow the ACLU to do more focused work to combat racial profiling in Virginia.

With the Patricia M. Arnold Memorial Fund the Virginia ACLU will establish a program to work solely on women's rights in Virginia. The Fund, a product of a bequest from lifelong ACLU supporter and pioneer female aviator Patricia Arnold, will enable the Virginia ACLU to conduct educational programs and develop litigation around women's rights issues. The program is still being developed but will be directed toward equal access to educational and job opportunities for women, as well as reproductive rights.

Student Allowed to Wear Lesbian Pride T-Shirt

Bowing to pressure from the ACLU of Virginia and the National ACLU's Lesbian Gay Bisexual Transgender & AIDS Project, officials at I.C. Norcom High School in Portsmouth have agreed to allow 17-year-old Bethany Laccone to wear her lesbian pride t-shirt to school. Bethany was pulled from class last December, made to turn her shirt inside-out, and then told she would be suspended if she again wore the t-shirt displaying two overlapping female gender signs.

Laccone reported the incident to the ACLU, which sent to high school officials a letter demanding that they stop censoring Laccone and warning them that the t-shirt ban violated the senior's free speech rights. The school quickly responded that it would allow Bethany to wear her t-shirt to school, thus avoiding a court date with the ACLU.

"I wear that shirt because I want people to know that I'm proud of being a lesbian and comfortable with who I am," said Bethany. "And I have the same Constitutional right to free speech as any other student."



Colleges Warned Not to Deny In-state Tuition to U.S.-born Virginia Residents with Undocumented Parents

Countering the Attorney General's interpretation of Virginia law on the right to in-state tuition, the ACLU of Virginia has warned colleges not to deny in-state tuition to students because their parents are unlawfully present in the state. In a letter sent to the President of every public university in Virginia in late March, ACLU Legal Director Rebecca Glenberg wrote that U.S.-born Virginia residents

are entitled to in-state tuition even if their parents are undocumented. The ACLU has offered legal representation to any such student denied in-state tuition.

According to the AG, dependent children are domiciled where their parents live, but unlawfully present parents cannot by definition be domiciled in Virginia. Therefore, their children do not qualify for in-state tuition.

"The Attorney General seems to be allowing his bias against immigrants to taint his legal reasoning" said ACLU of Virginia Executive Director Kent Willis. "There's nothing in the definition of domicile that requires legal residence--it's simply where you live and intend to stay. Besides, it is disingenuous to twist the law to say that a child born and raised all his life in Virginia is not domiciled here."

ACLU Gatherings

Membership Conference in D.C.-- You're Invited!

It took the ACLU about 80 years to hold its first national membership meeting. But since that inaugural event in 2002, it's practically become a tradition—and a valuable and entertaining one at that. Before 2002, there were other national ACLU gatherings. The staff of the state and national offices met annually and the lay leadership from around the nation came together every odd-numbered year to recommend organizational priorities. But the rank and file members—the backbone of the ACLU—had never had a chance to get together on a large scale. That all changed when more than a thousand ACLU faithful converged on Washington, D.C., six years ago for three days of meetings, speeches, workshops, entertainment, and lobbying.

The 2002 meeting was such a resounding success that we did it again in 2004 and then again in 2006. It seems we are now headed toward a biennial membership meeting in the nation's capital every even-numbered year.

The ACLU is in full bloom at the membership conference. I've heard National ACLU President Nadine Strossen debate Supreme Court Justice Antonin Scalia. I've met with elected officials on Capitol Hill. I've listened to comedians skewer government officials in the most imaginative ways. And, I've attended small workshops where I was able to interact with national experts on every conceivable civil liberties subject.

There are no dull moments at any ACLU gathering, and that is especially true of the membership conference.

So mark your calendar for June 8-10 and get ready to take your ACLU affiliation to a whole new level by attending the 2008 ACLU National Membership Conference (see below for additional information).

*Kent Willis
Executive Director*

ACLU of Virginia

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Save These Dates...

Immigrants' Rights Tops Agenda for Annual Meeting in Richmond, May 17

Join us at the ACLU of Virginia annual membership meeting and reception in Richmond on Saturday, May 17, 2:00-4:00 p.m. Our special guest this year is Michael W. Macleod-Ball, the ACLU's Chief Legislative and Policy Counsel at the Washington National Office. Additional details on back page.

NOVA ACLU Chapter Annual Meeting and Crabfest in Alexandria, June 1

Don't miss this annual ACLU tradition! Join the Northern Virginia Chapter of the ACLU on Sunday, June 1, from 1:00 to 5:00 p.m. at Fort Hunt Park, Area B, for crabs, hamburgers, hot dogs, veggie burgers, and more. Guest speaker: ACLU of Virginia Executive Director Kent Willis. For details, contact the NOVA ACLU Chapter at (703) 360-1096 or novachapter@acluva.org.

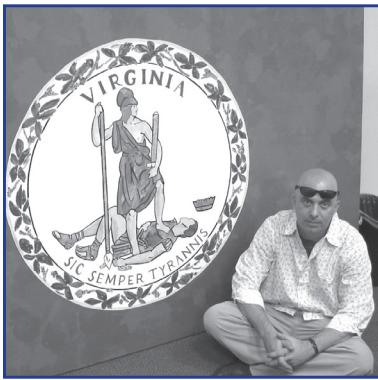
Membership Conference in D.C., June 8-10 Scalia, Ginsburg and Souter Set to Speak

Join us at the National ACLU membership conference at the Washington Convention Center from June 8-10. Meet fellow civil libertarians from around the nation for three days of advocacy, leadership discussions, Capitol Hill meetings, and hands-on activist training. Special guest speakers this year include Supreme Court Justices Antonin Scalia, David Souter, and Ruth Bader Ginsburg. For more information or to register, visit the ACLU's website at www.aclu.org/conference/2008. Financial assistance may be available for young adults. Questions? Contact Elizabeth Wong at acluva@acluva.org or (804) 644-8080.

ACLU of Virginia Legal Action

Chesterfield County Art Teacher Wins \$65,000 Settlement

Chesterfield County art teacher and painter, Steve Murmer, won a \$65,000 settlement from the County after Monacan High School officials wrongfully fired him in early 2007. Murmer was suspended and then fired because a three-year-old video of him demonstrating his painting technique surfaced on YouTube and was circulated among students. His technique involves using his body, including his buttocks, to apply paint to canvas.



Steve Murmer with his painting of State Flag, a gift to the ACLU of Virginia

Murmer produces his paintings in his own time and at his own expense. There is no indication that his privately produced artwork interfered with his professional responsibilities. Murmer was pleased with the settlement, and said, "I hope my case will cause schools to think twice before they fire a teacher for expressing himself outside the classroom. This settlement represents a vindication of me and the First Amendment."

Lawsuit Filed on Behalf of Man Denied Right to Vote

The ACLU has filed a federal lawsuit against Prince William County for denying a registered voter a ballot because he was not carrying identification at the polls last November. Virginia law requires that voters without ID be required to sign a form affirming their identity and then be allowed to vote.

R. Leigh Gillette arrived at his polling place in Prince William without an ID because he was headed to the gym and his wife was

driving. He was told, despite his protests, that under no condition could he vote without identification.

The most frequent complaint received by the ACLU on Election Day is from voters told that they cannot vote because they are not carrying IDs. It is estimated that 20 million Americans do not own government-issued IDs, the majority of whom are low-income, elderly or racial minorities.

Free Speech Lawsuit Prepared for Privacy Advocate

Preparations are underway to mount a legal challenge to a new law that prohibits the dissemination of Social Security Numbers even when they are downloaded from publicly accessible government websites.

The new law appears to have been passed to prevent privacy advocate B.J. Ostergren, a.k.a. "The Virginia Watchdog," from displaying Social Security Numbers as a way of demonstrating that the state is violating the privacy rights of citizens (as well as putting them at risk of identity theft) by allowing public records containing Social Security Numbers to be placed online.

The ACLU supports laws that prevent Social Security Numbers from being placed online, but the U.S. Supreme Court has made it clear the government cannot make information available to the public then restrict its dissemination without violating free speech.

Ostergren says she has downloaded more than 20,000 Social Security Numbers in an attempt to shame legislators into passing a law to require that Social Security Numbers be removed from public records before those records are placed online for the public to view. The ACLU plans to file a lawsuit on Ostergren's behalf before the new law takes effect on July 1.

Nightclub Owner Apologizes for Racially Discriminatory Policy

Barry Davis, the owner of Kokoamos Island Bar, Grill and Yacht Club in Virginia Beach, settled his case with the ACLU of Virginia and issued a public apology to customers Kim Hines and Myron Evans for the "embarrassment and humiliation" they suffered when they were denied entry into his club in the summer of 2006. Hines and Evans, both African-American, were barred from entering the club because they wore their hair in dreadlocks, a violation of Kokoamos' prohibition against braids, twists, cornrows, and dreadlocks.

The settlement with the ACLU came one month after Davis settled a separate case filed against him by the U.S. Department of Justice. Under the terms of the settlement with DOJ, Davis will post and enforce a non-discriminatory dress code policy at Kokoamos; will implement a system for receiving and investigating complaints of discrimination; and will conduct monitoring to ensure that Kokoamos' employees are acting in a non-discriminatory manner consistent with federal law.

Sandra Day O'Connor Sits on Panel in Prayer Case

Making a surprise appearance on March 19, retired U.S. Supreme Court Justice Sandra Day O'Connor sat on the Fourth Circuit Court of Appeals panel that heard *Turner v. Fredericksburg*, case in which a Fredericksburg City Council member challenged the Council's policy requiring that all meeting-opening prayers be nonsectarian.

The nonsectarian prayer policy was adopted after the ACLU threatened to sue the City Council if it continued to allow meetings to be opened with a Christian prayer. The ACLU filed an amicus brief in support of Fredericksburg's non-sectarian prayer policy.

A ruling is expected sometime this summer.

Around Virginia

Of Botetourt, Berryville and the Ongoing Battle for Free Speech

By Kent Willis, Executive Director

Virginia is loaded with ordinances that infringe on freedom of expression. Most readers would be surprised at the number of local laws out there that restrict the right to display political messages on one's own property, stifle public demonstrations, and illegally limit leafleting.

Most of these ordinances lie dormant most of the time. But when they're needed, local officials are quick to dust them off and apply them--usually to no good purpose.

I was reminded of this a couple of weeks ago when we received, within a 24-hour period, complaints about two such ordinances. In Botetourt, the County administrator sent to local political parties a reminder that campaign signs may not be posted, even in one's own yard, more than 45 days in advance of an election. Spirited political races apparently led some individuals to declare their allegiances unusually early. So County officials reached deep into their bag of ordinances and found this old one that no one could recall being enforced before.

In Berryville, the Virginia Organizing Project was told they would need a permit if more than three of its members gathered in public to protest government actions affecting the availability of low income housing. They were also told that such gatherings were banned altogether during the lunch hour, and that a permit could be denied if, in the opinion of town officials, the gathering created a "public inconvenience."

ACLU founder Roger Baldwin was fond of saying that the battle for civil liberties never stays won, by which he meant that the inexorable propensity of government officials is to infringe on individual rights. It is often done with the best of intentions, but with little sense of the impact on the very characteristic that most defines and binds us as a people: our right to express our views.

That's where the ACLU of Virginia comes in like no other organization. We are quick to send stern letters to government officials (nothing personal, mind you) demanding that they repeal the unconstitutional restrictions, or face a lawsuit.

In recent years, we have done just that in dozens of places in Virginia, and in only a few cases have we actually had to go to court. In almost every instance, our persuasive arguments -- along with the threat of litigation -- bring about voluntary reform.

Now, imagine the cumulative impact of the ACLU doing this in every state, because that is precisely what we do.

Berryville, by the way, has promised, in writing, to change its onerous demonstration ordinance. And Botetourt, also in writing, has agreed not to enforce the ordinance imposing time restrictions on political signs on private property. Just two little instances of protecting freedom of expression. Thanks to the ACLU, though, they add up.

Student Chapters Energized and Active

New Chapters Off to the Races

The ACLU of Virginia has three new campus chapters that are up and running. Thomas Okuda Fitzpatrick organized an energetic group at **William and Mary's Marshall-Wythe Law School** early in the semester. The Chapter kicked off with an informational meeting at which Kent Willis spoke on "Sex workers, cross burners, and felons." The chapter will be working on the Virginia Voter Restoration Project by helping felons restore their civil rights.

In nearby Newport News, Matthew Clark has put together a group at **Christopher Newport University**. Much of their work is centered on informing students and the community of their rights during police encounters. As part of their "Know Your Rights" Campaign, they are distributing pocket-sized information cards and screening the "Racial Profiling" episode of the ACLU's TV show, the *Freedom Files*.

Meanwhile, at **Virginia Tech**, Justin Bangerter and his group are committed to informing students of their rights and of their responsibility to defend freedom. Justin's interest in the ACLU was sparked by the issues at Guantanamo Bay, especially indefinite detention and torture.

Established Chapters Going Strong

Earlier this year, the **UVA Law School** Chapter co-sponsored a debate featuring Americans United for Separation of Church and State Executive Director Barry Lynn and Jeffrey Vantrella from the Alliance Defense Fund. The Chapter is also screening episodes from the second season of the ACLU's *Freedom Files* each week.

UVA undergraduate students are covering the gamut of ACLU issues. The Chapter co-sponsored a screening of "Up the Ridge" detailing the prison conditions at Wallens Ridge maximum security prison in Big Stone Gap. They also hosted a panel discussion on immigrants' rights, at which ACLU-VA Legislative Counsel Hope Amezquita spoke about anti-immigrant legislation in the 2008 General Assembly. Now, the group is planning a theatrical presentation on reproductive rights and students' right to medically-accurate sex education in schools.

The **George Mason University Law School** Chapter recently screened and discussed *USA v. Al-Arian*, an award-winning documentary about Dr. Sami Al-Arian, a professor and activist in Florida who was arrested and detained for allegedly funding a terrorist group. In addition, the group has held other events examining "Islamophobia" and anti-Arab racism.

From the State Capitol - 2008 Session

Below are some of the significant civil liberties issues addressed in this year's legislative session. The ACLU of Virginia and our grassroots supporters lobbied for or against more than 100 bills in the 2008 session.

New Law to Curb Dissemination of SSNs Has Free Speech Consequences

A bill to prevent the dissemination of Social Security Numbers, even when legally obtained from public websites, has the ironic effect of interfering with the free expression rights of privacy advocates fighting against easy access to Social Security Numbers. We originally supported the bill as a means of protecting Social Security Numbers, but later decided that the government cannot prevent individuals from disseminating information published by the Government. (See *Legal Action*.)

Most Anti-Immigrant Bills Defeated

Over one hundred anti-immigrant bills were introduced in 2008, using up an enormous amount of legislative energy, but nearly all of them failed in the end. Bills to deny in-state tuition to unlawfully present immigrants and to require state agencies to enforce federal immigration law were among those that failed. A bill denying bail to unlawfully present individuals charged with certain crimes did pass. (For a complete listing of the anti-immigrant bills, visit the ACLU of Virginia website at www.acluva.org.)

Death Penalty Expansion Thwarted

In a scenario similar to last year, the House and Senate passed a bill that would have dramatically expanded the death penalty by lengthening the list of accessories who may be accused of capital crimes. Currently, under Virginia's "Triggerman Rule," only the actual perpetrator is eligible for the death penalty, with three specific exceptions. The Governor vetoed the bill eliminating the Triggerman Rule, as he did last year, and the General Assembly failed to override the veto, same as last year.

Moratorium and abolition bills did not receive serious consideration.

Anti-Real ID Bills Fall Short

Two bills were introduced in 2008 requiring Virginia either to reject the federal Real ID Act or amend it to protect privacy rights of REAL ID holders. The Senate bill asking Virginia to reject Real ID was continued to 2009 for further consideration. The House bill asking Congress to repeal or amend Real ID was not even given a committee hearing. Privacy advocates hoped that Virginia would join the 17 other states protesting the new law that will create a national database for drivers licenses and require background checks on all drivers. The so-called "Real ID" will be required to board an airplane or to enter many federal facilities.

Mental Health Reforms Pass

In the wake of the Virginia Tech shootings last year, the General Assembly passed comprehensive reforms to Virginia's mental health laws. From a due process standpoint the ACLU is concerned that the new laws may make it too easy to involuntarily commit individuals to mental institutions. From a privacy standpoint we are concerned that too much personal medical information is now made available to too many parties. We'll be monitoring the implementation of the new laws.

Voting Rights Restoration Bills Deferred to Next Year

Legislators punted on bills to amend the Virginia Constitution to allow for restoration of voting rights of felons. Now, only the Governor can restore the voting rights of former felons as authorized under the Virginia Constitution. Our aim is to bring these bills back in the 2009 session, but with considerably more support.

Bill to Expand Arrests and Searches Defeated in Senate

For the second year in a row, a bill that would have granted law enforcement officials the authority to arrest individuals for all Class 1 & 2 misdemeanors passed the House, but was killed in a Senate Committee. Currently, Virginia law permits the arrest of individuals for such misdemeanors only in very limited circumstances. This bill would have expanded the power of law enforcement to make arrests in hundreds of new scenarios. And, since searches pursuant to arrests are legal, the effect of the bill would be to dramatically expand the power of the police to conduct legal searches.

Bill Allowing Language Discrimination against Employees Defeated

A bill that would have permitted small businesses in Virginia to discriminate on the basis of language spoken in the workplace passed the House, but failed in the Senate. The bill would allow employees who do not speak English to be fired, even in situations where speaking English is unrelated to job performance.

Available Soon!
2008 Virginia General Assembly Review
For full details on these and other bills that impact civil liberties in Virginia, contact us at (804) 644-8080 or lobby@acluva.org

Student Religious Expression Protected

A new law permits students to express religious viewpoints in homework and class work. We argued that the bill should be amended to protect all viewpoints, including political, social, philosophical *and* religious, but neither legislators nor the Governor agreed with us.

Reproductive Rights Remain Intact

For the fourth year in a row, no anti-choice bills passed the General Assembly, although at least a dozen were introduced. Bills to place onerous and unnecessary financial requirements on abortion clinics all failed, as did a bill to require physicians to provide pregnant women with ultrasound images of fetuses before performing an abortion. An odd budget amendment prohibiting state funds from being used to support Planned Parenthood was deleted at the last moment. Anti-choice bills tended to receive support in the House, but were blocked in the Senate.

Meet the Staff



Kent Willis, Executive Director

Kent has been with the ACLU of Virginia for 20 years, the last 18 as Executive Director. He grew up in Hampton, graduated from the College of William and Mary in 1971, and began his public interest career that year as a lobbyist for a Virginia-based environmental group, The Bay Committee. After several years as a disability rights advocate with Goodwill Industries, Kent spent ten years promoting fair housing, five of them as Executive Director of Housing Opportunities Made Equal in Richmond.

Rebecca Glenberg, Legal Director

Rebecca joined the staff in 1999 after serving as an attorney for the Legal Aid Society in Hawaii for two years. Raised in Wisconsin, she graduated from the University of Chicago in 1991 and the University of Chicago Law School in 1997. Rebecca is the principal litigator for the ACLU of Virginia and has handled more than 100 cases during her tenure as Legal Director. If you know of a civil liberties or civil rights violation in your area, contact Rebecca.



Valerie Jones-Fleming, Office Manager

A Richmond native, Valerie graduated from Thomas Jefferson High School in 1981, and is a certified medical secretary. She joined the ACLU staff permanently in March 2003 after serving as a temp for several months. Valerie's voice is the one you hear when you call the office. She takes care of the phones, membership communications, requests for assistance, the bills, and the various machines needed to make the office run. Contact Valerie to update your membership information or for other general assistance.



Elizabeth Wong, Public Education and Development Coordinator

Brooklyn-born and raised, Elizabeth joined the staff in June 2005 after graduating from the College of William and Mary. Her interest in the ACLU began in college, where she screened the ACLU film, *Unconstitutional*, about the Patriot Act and in doing so met Kent. Elizabeth manages the website and publications, is the liaison to student chapters, plans events, and handles development inquiries. If you'd like to screen an ACLU film, start a chapter, or make a donation, contact Elizabeth.



Hope Amezquita, Legislative Counsel

Originally from Ohio, Hope graduated from Ohio State University in 2003, and in 2006 from OSU Moritz College of Law. In 2005, she served as a summer legal intern at the ACLU's Southern Regional Office in Atlanta. Following graduation from law school, she took over the ACLU of Virginia legislative advocacy and public policy program. As a lawyer, she also does the initial analysis of potential lawsuits. For questions or information about proposed legislation, or to become a volunteer grassroots lobbyist for the ACLU of Virginia, contact Hope.

Adisa Muse, Director of the Virginia Voter Restoration Project

Adisa is the newest addition to staff, but as a former board member, he is a veteran with the ACLU of Virginia. From Petersburg, he graduated from Morehouse College in 1997. He has worked on many political campaigns across the country and as a lobbying consultant. Adisa oversees the ACLU of Virginia's newest project to reform Virginia's antiquated felon disenfranchisement law and to assist individuals who have lost their voting rights. Contact Adisa if you, or someone you know, would like to have your voting rights restored, or if you would like to join our efforts to reform Virginia's voter restoration law.



Director of Racial Justice and Immigrants' Rights Project

The ACLU of Virginia is currently looking to fill this new position. We're seeking an experienced organizer and lobbyist to work in the field with immigrant groups, and to advocate for sound public policies that protect the rights of Virginia's immigrant population. If you would like to see a job description, contact Kent Willis.

You may contact staff members at acluva@acluva.org

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Newsletter of the ACLU of Virginia

E-News, Get Your ACLU E-News!

Now in its third year, ACLU of Virginia E-News has been a hit among readers. If you would like to know what we're doing throughout the year, then sign up for E-News. When you subscribe, you will receive email updates on lawsuits and other actions by the ACLU of Virginia as they happen. You will get about one email per week, typically the same press releases we send to the media. On occasion, we'll also send you TV alerts, information on upcoming events in your area, and important national news.

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If you'd like to learn more about the ACLU's planned giving options and becoming a member of the DeSilver Society, call the Planned Giving office in NY toll-free at (877) 867-1025, or email legacy@aclu.org. Or you can contact the ACLU staff in Richmond at (804)644-8080.

You're Invited!

ACLU of Virginia
Annual Membership Meeting
and
Reception

Saturday, May 17, 2:00-4:00 pm
530 East Main Street, Richmond

Keynote Address:
“The ACLU and the
Rights of Immigrants”

Michael W. Macleod-Ball

ACLU Washington National Office
Chief Legislative and Policy Counsel

Q&A to follow

We'd like to know if you'll be attending. Call us at (804) 644-8080 or email us at acluva@acluva.org.