

*“If the Bush White House pettily attempted to use the CIA to destroy my reputation... to punish me for speaking out, that would be a profound violation of my Constitutional rights”*

Juan Cole  
Professor, University of Michigan

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# RIGHTS REVIEW

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FALL 2011



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## ACLU BLOG ROLL

If you haven't already, it's time to check out the ACLU of Michigan's blog and learn more about how we are protecting your rights. Go to [www.aclumich.org/blog](http://www.aclumich.org/blog) and hear from our staff, clients and cooperating attorneys on the issues that affect you. Here's a sample of what you've missed.



After we helped protect a blogger's right to criticize city officials, Communications Associate Maggie McGuire wrote about the importance of anonymous political speech: "Since the founding of our nation and long before the internet, anonymous speech played a significant role in politics. In fact, the Constitution was adopted, in part, because of the influence of anonymous pamphlets signed 'Publius' (in reality James Madison, Alexander Hamilton and John Jay). The illegitimate use of the courts to silence and retaliate against critics is a threat to everyone's right to speak freely on the internet."



Pulitzer Prize-nominated journalist and ACLU supporter Desiree Cooper wrote passionately about our work challenging pay or stay sentences in a guest blog: "Debtor's prison. Now there's a phrase I never expected to hear outside of fiction. Unfortunately, it's all too real for some metro area residents who are landing in jail not for their desperate crimes, but for their inability to pay their fines. In good times, fines may seem like an efficient way to slap the wrists of law-breakers. But in bad times, fines start to draw a bright line between the haves and the have-nots. Should you really lose your freedom over not being able to pay traffic tickets or other misdemeanor fines?"



ACLU of Michigan Cooperating Attorney Gayle Rosen updated us on Ehlena Fry's fight to get her service dog, Wonder, in class: "The ACLU of Michigan intervened, and in April 2010 Ehlena's school district agreed to allow Wonder to accompany her through the end of the school year. However, the victory was short-lived. The school district is again refusing to allow Wonder in class. On the 20th anniversary of the signing of the Americans with Disabilities Act into law, we filed a complaint with the U.S. Department of Education on behalf of Ehlena."

## UNEQUAL JUSTICE FOR THE POOR

### MODERN DAY DEBTORS' PRISONS CHALLENGED

It's not a crime to be poor, but try telling that to Kyle Dewitt. In August, Kyle, 19, was sentenced to three days in jail in Ionia because he is unemployed and unable to pay \$215 in fees related to a ticket for catching a fish out of season.



Kyle Dewitt

In May, Kyle was ticketed for allegedly catching a small-mouth bass out of season by the Department of Natural Resources. For weeks he unsuccessfully attempted to raise money doing odd jobs around the neighborhood to pay the ticket.

Subsequently, a bench warrant for his arrest was issued and Kyle turned himself. At hearing, Judge Raymond Voet of the 64A District Court in Ionia ordered him to pay \$215 by 5 p.m. or face 3 days in jail.

Although Kyle offered to pay \$100 the next day and the remainder next month, the judge refused that offer and he was jailed.

During an emergency hearing, an ACLU attorney argued that it was unconstitutional for Kyle to be sentenced to jail for being poor. In a bizarre turn of events, it was also revealed that Kyle had not pleaded guilty to the offense and therefore should not have been jailed before a jury was able to hear his case.

The judge released Kyle pending a trial for the underlying offense of catching a fish out of season. However, Kyle's situation speaks to a disturbing trend in Michigan of jailing poor people because they cannot afford to pay fines or fees.

For the past two years, the ACLU of Michigan and national ACLU have investigated modern-day debtors' prisons in Michigan. During a two week period in July and August, ACLU attorneys witnessed district and circuit court judges dole out such "pay or stay" sentences in seven counties - Wayne, Oakland, Macomb, Montcalm, Muskegon, Kent and Ionia.

On August 4, the ACLU announced the results of its investigation and challenged "pay or stay" sentences imposed on Kyle Dewitt and four other individuals across the state who were illegally jailed for being too poor to pay court fines. In each instance, the judge failed to hold a hearing that would prove the individual was too poor to pay or give the defendant the option of a payment plan or community service.

"Long thought to be a relic of the 19th century, debtors' prisons are still alive and well in Michigan," said Kary Moss, the ACLU of Michigan's executive director. "Jailing our clients because they are poor is not only unconstitutional, it's unconscionable and a shameful waste of resources. Our justice system should be a place where freedom has no price and equality prevails regardless of a defendant's economic status."

The U.S. and Michigan constitutions forbid debtors' prisons and the jailing of individuals who cannot pay court fines and fees because they are poor. The ACLU's clients represent dozens of poor defendants who are being jailed

at alarming rates for failing to pay legal debts they cannot afford.

In addition to Kyle Dewitt, the ACLU successfully represented:

- Kristen Preston, 19, was sentenced to 30 days in jail by Judge Voet because she could not afford to pay a \$125 alcohol assessment fee stemming from a minor in possession (MIP) charge. She awaits sentencing for the MIP charge.



Kristen Preston

- Dorian Bellinger, 22, was sentenced to 13 days in jail by Judge Robert Brzezinski of the 16th District Court in Livonia because he could not afford to pay \$425 in fines and costs related to a misdemeanor marijuana possession charge.



Dorian Bellinger

- Dontae Smith, 19, was sentenced to 41 days in jail by Judge Joseph Longo of the 43rd District Court in Ferndale because he could not afford to pay \$415 in connection to several driving offenses, including driving with a suspended license and impeding traffic.



Dontae Smith

- David Clark, 30, was sentenced to 90 days in jail by Judge Randy Kalmbach of the 27th District Court in Wyandotte because he could not afford to pay \$1,250 in fees and costs related to charges for spanking his girlfriend's son. Clark's girlfriend was charged with the same misdemeanor offense; however, her parents paid her costs, and she was therefore not jailed.



David Clark

In 2010, Michigan was among the states featured in an ACLU report, "In for a Penny: The Rise of America's New Debtors' Prisons." The report detailed the way cash-strapped courts target poor people who have already served their criminal sentences to pay fines or face jail time.

While many judges view the collection of legal debt as a critical revenue stream, there is no evidence such sentences increase revenue, as the costs of incarcerating indigent defendants for failing to pay generally exceed the amount owed.

### STATE ANTI-BEGGING LAW IS HARSH, UNCONSTITUTIONAL

James Speet has been homeless for about two years and lives in a tent. He receives food stamps and collects bottles, cans and scrap metal to survive.

He hopes to find work one day, asking for employment by holding up a sign in public that reads "Need Job, God Bless."

Unfortunately, James has been prosecuted and jailed multiple times under an old state law enforced by the City of Grand Rapids, which makes peaceful panhandling a crime in all public places.

In September, the American Civil Liberties Union of Michigan challenged this unconstitutional state law on behalf of James Speet and Ernest Sims, a veteran jailed for asking people for spare change on the public streets of Grand Rapids. The lawsuit was filed against the state attorney general and the City of Grand Rapids, which has made 399 begging-related arrests since 2008.

Similar anti-begging laws have been struck down as unconstitutional in states across the country, including New York, Florida, California, Massachusetts and Illinois. Peaceful panhandling is protected speech under the First Amendment, and such laws violate the Fourteenth Amendment right to equal protection as they allow other First Amendment activity while punishing begging.

This is not the first time the ACLU has challenged anti-begging policies in Michigan. In May, the ACLU of Michigan successfully lobbied Royal Oak officials to repeal a similar unconstitutional ordinance.



James Speet

## OUR HEROES: THANKS TO DEPARTING BOARD MEMBERS JIM RODBARD AND SUSAN TITUS

The ACLU of Michigan thanks Jim Rodbard and Susan Titus for their long-term service on the Board of Directors. Departing from the Board this fall, their passion and dedication will be sorely missed.

Jim joined the Board in 1997 and worked for many years as a board member, volunteer attorney, fundraiser, and spokesperson. In addition to his role as President from 2004-2008, Jim chaired the Development Council, the chief fundraising arm for the Board of Directors, and served as the state board's representative to the National Board of Directors for three years, where he served on the Governance Committee.

During his tenure as President, Jim helped navigate the challenge of selling our first office near Wayne State University and buying and renovating a new 10,000 square facility on Woodward Avenue. He has led our expansion effort for the last five years, including doubling our staff and budget and opening a new regional office in Grand Rapids.

Jim has done inestimable work to modernize the organization's leadership structure, allowing us to meet new challenges and opportunities presented by the organization's growth and paving the way for the next generation of civil rights leaders.

"Words cannot express how grateful I am to Jim for his incredible devotion to the ACLU and the thousands of hours he has given us," said Kary Moss, Executive Director. "I could always count on him to get the job done and to do so with humor. He is a natural leader, willing to take risks and call on others to give too, whether it is financially, their time, or their expertise."

Jim has worked as a cooperating attorney on many cases, including representing a reverend who was illegally prohibited from performing baptisms at Ford Custer Recreation Center near Battle Creek. The Michigan Department of Natural Resources rescinded all of its rules governing religious activities in state parks as a result of that work.

A resident of Kalamazoo, Jim has also held many positions in his community, including board membership in the Greater Kalamazoo Fair Housing Partnership, One Kalamazoo, and Legal Aid Bureau of Southwestern Michigan. In 1997, Jim founded his own general civil practice with an emphasis on corporate formation and transactions, including limited liability companies and partnerships, not-for-profit organizations, employment law, commercial and residential real estate transactions, probate and estate planning.



For over twenty years, Susan Titus has worked for civil liberties as a member of the state Board of Directors. A social worker and graduate of Wayne State University, Susan has worked with seriously chronically mentally ill adults for much of her professional career. She departs this fall and will be missed.

As a member of the Board, Susan worked on many projects and saw links to her own life's work. She found that many ACLU issues were relevant to her work teaching social justice in social work, including our efforts to end the practice of sentencing juveniles to life without parole and lowering the numbers of children suspended and expelled from public schools. Susan says her passion is because the ACLU's work "brings community and court injustices in focus for all of us."

Executive Director Kary Moss noted, "As a social worker, Susan always brought an important voice and perspective to our substantive discussions and her years as a non-profit director was of immense benefit to us."

Susan was an active member of the Budget and Audit Committee, as well as chairing the ACLU of Michigan Metro Detroit Branch.

"We are very grateful to Susan for her many years of volunteer service to the ACLU," said Ralph Simpson, President of the ACLU of Michigan. "In particular, the financial work in any non-profit organization can be a thankless task but Susan always understood how important it is that non-profits have effective and efficient financial practices in place."

Susan currently teaches in the Bachelor and Master's Degree programs at Wayne State University School of Social Work. She was active in organizing the Union of Part Time Faculty at Wayne State University, affiliated with the American Federation of Teachers, and is president of the union.

For more than two decades, Susan was Executive Director of Citizens for Better Care (CBC), an agency which advocates for persons receiving long term care services. Among the many leadership positions she has held, Susan is past president of the National Citizens Coalition for Nursing Home Reform. She was a founding member of Women Executives, a group supporting female CEOs of non-profit organizations in Metropolitan Detroit. She also established club programs for the mentally ill in the Detroit Recreation Department and Operation Friendship.



## ACLU SUES CIA FOR DOCUMENTS ON ALLEGED ILLEGAL SPYING OF IRAQ WAR CRITIC JUAN COLE

Juan Cole is a distinguished University of Michigan professor and author; however, it's his vocal criticism of the Iraq War that put him on the Bush administration's radar.

According to a former CIA officer, the Bush administration asked intelligence officials in 2005 and 2006 to gather any potentially negative personal information about Cole that could be used to undermine his credibility. Although the officer, Glenn Carle, says that he refused to participate and complained to his superiors at the CIA about the requests, it's unclear whether federal government went through with plans to illegally spy on an innocent American.

Earlier this year, the American Civil Liberties Union and the ACLU of Michigan filed a lawsuit demanding that the government turn over any documents it has related to the alleged smear campaign. Previously, the ACLU requested materials under the Freedom of Information Act related to Cole from the CIA, the FBI and the offices of both the Attorney General and the Director of National Intelligence.

"Americans don't need permission from their government to write and publish their political opinions. If the Bush White House pettily attempted to use the CIA to destroy my reputation by seeking dirt on my private life in order to punish me for speaking out, that would be a profound violation of my Constitutional rights," said Cole, who is a widely respected specialist on Middle Eastern history and politics. "Moreover, it is a violation of U.S. law for the White House to ask the CIA to gather information on an American citizen on U.S. soil and for CIA officials to attempt to do so, as Glenn Carle has alleged they did. These actions would be a clear violation of my civil rights."

The CIA is barred from conducting any kind of domestic activity except for collecting foreign intelligence or counter-intelligence - and even those actions must be coordinated with the FBI.



## REFLECTING ON TRAGEDY, RECOMMITTING TO LIBERTY



The ACLU of Michigan joined ACCESS, WDET-FM and the University of Michigan-Dearborn to commemorate the tragic events of September 11, 2001 with US Rising: Emerging Voices in Post-9/11 America.

Hundreds of people attended forums, performances and exhibits from Sept. 8-11, examining the enduring impact of the 9/11 attacks on our society, our laws and recommitting ourselves to the values that we cherish - justice, equality and the rule of law.

US Rising opened with The New Legal Landscape, a panel discussion at Wayne State University exploring the government secrecy, illegal surveillance, racial profiling and intrusive airport searches that have defined this decade.

"In the name of trying to find the needle of a terrorist plot," said ACLU National Security Project

Staff Attorney Zachary Katznelson, "we have built the biggest haystack of all time, and it's only growing."

Katznelson joined ACCESS Board Member Noel Saleh and ACLU of Michigan client Professor Juan Cole to discuss the evolving debate between national security and our individual freedoms.

The conversation was far-ranging, touching on the Patriot Act, drone programs and illegal domestic surveillance including our request for information from the federal government for documents compiled on Prof. Cole, who has been an outspoken critic of the policies of the Bush administration.

This panel discussion can be viewed on our website at [www.aclumich.org/Post911Law](http://www.aclumich.org/Post911Law)

ACLU of Michigan Legal Director Michael Steinberg participated in another panel during the weekend of events titled Reclaiming our Civil Rights at the Arab American National Museum. Other panelists discussing the challenges facing our nation included U.S. Representatives Hansen Clarke and John Dingell as well as Jumana Musa from the Rights Working Group, Shireen Zaman from the Institute for Social Policy and Understanding and Barbara McQuade, U.S. Attorney for the Eastern District of Michigan.

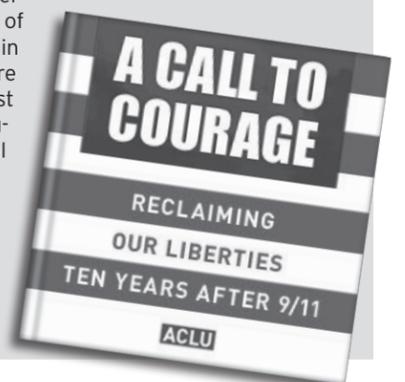
The optimism and hard work showcased at US Rising reaffirmed that we must not be forced into a false choice between safety and freedom. Instead, our fundamental values of justice, equality and the rule of law make up the very foundation of our future strength and security.

## ACLU RELEASES REPORT ON 10TH ANNIVERSARY OF 9/11

Ten years after 9/11, our nation still faces the challenge of protecting our country while ensuring our civil liberties. A new report from the national ACLU, released to coincide with the anniversary, explores how sacrificing our essential values of justice, individual liberty, and the rule of law ultimately undermines our safety.

A Call to Courage: Reclaiming Our Liberties Ten Years after 9/11 points out that many controversial policies have been shrouded in secrecy under the rubric of national security, preventing oversight and examination by the public.

The report warns that a decade after the attacks, the United States is sadly at risk of enshrining a permanent state of emergency in which our core values are lost in a flood of dubious national security claims.



## EXECUTIVE DIRECTOR RECOGNIZED BY WOMEN'S HALL OF FAME AND LEGAL GROUPS

What do a world-ranked wrestler and the executive director of the ACLU of Michigan have in common?

One wrestles her opponents to the mat, while the other wrestles extreme measures that put our civil liberties at risk. They both, however, are among the eight notable women selected for induction into the 2011 class of the Michigan Women's Hall of Fame.

The ACLU of Michigan's Kary Moss will be honored along with the other outstanding women at a benefit dinner on Thursday, October 27 at the Kellogg Hotel and Conference Center in East Lansing. The Michigan Hall of Fame was the first of its kind to recognize high-achieving women of an individual state. Kary is being honored for her strong defense of women's rights as an attorney and executive director.

In addition to the Women's Hall of Fame honor, this year Kary was also named a Champion of Justice by the State Bar of Michigan. She was among only seven practicing lawyers or judges recognized for their integrity, superior

professional competence and outstanding accomplishments in their communities.

Michigan Lawyer's Weekly also honored Kary as a 2011 Women in Law award recipient for her commitment to excellence in the practice of law; her leadership in the profession; for providing mentorship to other women in the field; and for contributing significant time and effort to volunteerism and pro bono advocacy and litigation.

Kary has served as the Executive Director of the ACLU of Michigan since 1998 and has spearheaded tremendous growth in the organization. In addition to leading two effective capital and operating campaigns, she oversees the organization's programs and important civil rights cases. Recent high-impact cases have included the country's first challenge to attempts to close immigration hearings to the public, investigating warrantless wiretapping by the National Security Administration, and initiating our campaign to eradicate debtors' prisons in Michigan. She also serves as the president of the ACLU's Executive Director Council, representing all state directors in the ACLU.



## NEW STAFF MEMBERS BRING ENTHUSIASM, EXPERTISE TO FIGHT FOR EQUALITY

The ACLU of Michigan is pleased to welcome five new team members this fall, including three additions to the legal staff, an administrative assistant in the West Michigan regional office and a field organizer. Get to know the staff:

### Alexandrea Brennan Legal Fellow



Alexandrea Brennan joined the ACLU of Michigan as a legal fellow in September after spending the summer of 2010 as a legal intern. Brennan graduated from Center College in 2008 with a B.A. in Government, and is a graduate of the Washington and Lee School of Law. Most recently, Brennan practiced as a student attorney at the Washington and Lee University Community Legal Practice Center.

Her volunteer experience includes working with Court Appointed Special Advocates, Gemeinschaft Home, and Project Horizon. Brennan was awarded for her community service during law school, and she also received the Randall P. Bezanson Award for outstanding contributions to diversity in the life of the law school community. Brennan is particularly passionate about issues affecting those living in poverty.

### Rick Haberman Education Advocacy Staff Attorney



Rick Haberman joined the staff of the ACLU of Michigan in October. As our Education Advocacy staff attorney, Rick is responsible for advancing children's right to a quality education in our state through litigation and advocacy. A graduate of the University of Chicago and the University of Iowa College of Law (with high distinction), Rick is passionate about educational equity and student civil liberties. Before law school,

Rick worked as a middle school teacher for three years in Houston, Texas with Teach for America. He describes his experience teaching English and reading to disadvantaged students as "a three year crash course in educational inequity that left me with distinct lessons from every level of the educational system: classroom, bureaucracy and state-house."

Before coming to the ACLU, Rick was a partner at Dickinson Wright PLLC, where he worked for 14 years. In addition

to his litigation responsibilities, he served as Pro Bono Coordinator for five years, doubling the firm's commitment to volunteer work and creating a team to defend death penalty cases. He was named a 2011 Super Lawyer by Thomson Reuters. A longtime ACLU cooperating attorney and member of the ACLU Lawyers Committee, Rick has also been a union organizer, a board member of Legal Aid and Defenders Association, and Co-Chair of the Federal Bar Association's Pro Bono Committee.

### Julia Henshaw West Michigan Regional Office Administrative Assistant



Julia Henshaw joined the ACLU of Michigan in August as administrative assistant to support the legal work being done on the Western side of the state.

She is particularly passionate about protecting religious freedom of expression, ensuring that people of all religions or no religion are protected, and assisting in the creation of an atmosphere of interfaith support in the Grand Rapids area.

Julia earned her Bachelor of Arts degree in philosophy from Southern Illinois University Carbondale in 2006, focusing primarily on American philosophy. She was a chosen participant in PIKSI (Philosophy in an inclusive key summer institute) at the Rock Ethics Institute of Pennsylvania State University, focusing on issues of race, gender, and disability. Currently, she is pursuing her Master of Education in Adult and Higher Education at Grand Valley State University.

### Merissa Kovach Field Organizer



Merissa Kovach joined the ACLU of Michigan team as an intern in May 2008 and was later hired as a legislative assistant. She currently serves as the organizations field organizer working to enhance the political capacity and effectiveness of the ACLU by building local activist bases of ACLU members and assisting in the implementation of statewide issue campaigns. She is also responsible for meeting the ad-

ministrative and program needs of the ACLU's local units.

Merissa graduated from Michigan State University's James Madison College in 2008 with a B.A. in Political Theory and Constitutional Democracy. She has a background in state government affairs and legislative advocacy. Merissa has previously worked for both the Michigan legislature as well as a government affairs consulting firm in Lansing, which represented such ACLU allies as the Michigan Campaign for Justice and Planned Parenthood Advocates of Michigan.

### Sarah Mehta Legal Fellow



Sarah Mehta joined the ACLU of Michigan staff in September 2011 and is responsible for legal advocacy activities, including research, outreach, public speaking and media interviews to advance civil liberties in Michigan. Previously, she was the Aryeh Neier fellow at Human Rights Watch and the national American Civil Liberties Union, working on the rights of people with

disabilities in immigration court and detention. Sarah will be taking the Michigan Bar Exam later this year.

She is a graduate of Yale Law School and has a dual bachelor's degree in International Development and South Asian Studies, honors, from Brown University. From 2005-2006 she was a Fulbright Scholar in India, investigating discrimination against Muslims and previously spent a year in Hyderabad, India, studying access to courts.

As a law student, she was a student director of the Prison Litigation Clinic and participated in the International Human Rights Clinic, Capital Punishment Clinic and the Criminal Defense Project. Sarah was an articles editor of the Yale Human Rights and Development Law Journal and was director of the Civil Rights Project. During her summers, she worked on juvenile justice in Mississippi and civil rights abuses in Louisiana. Sarah speaks intermediate French and Hindi/Urdu.

## APPEALS COURT STRIKES DOWN PROPOSAL 2 AS UNFAIR TO STUDENTS OF COLOR

In a victory for equal access to our educational system, this summer the U.S. Court of Appeals for the Sixth Circuit struck down a Michigan ballot initiative that unconstitutionally limits fair access to the state's political processes for students of color.

Shortly after the ruling against the initiative commonly known as "Proposal 2," the Michigan attorney general successfully requested the court to convene a 16-judge panel to reconsider the decision. A rehearing by the full court of appeals is expected in early spring 2012.

Shortly after Proposal 2 was passed in 2006, a lawsuit was filed on behalf of 18 students, faculty and applicants to the University of Michigan by the ACLU, NAACP, NAACP Legal Defense and Educational Fund (LDF) and the law firm of Cravath, Swaine and Moore. The lawsuit argued that the ban unconstitutionally discriminates against minorities.

In its 59-page decision, the appeals court agreed that Proposal 2 violates the Equal Protection Clause of the U.S. Constitution, creating a double standard in university admissions that hurts people of color.

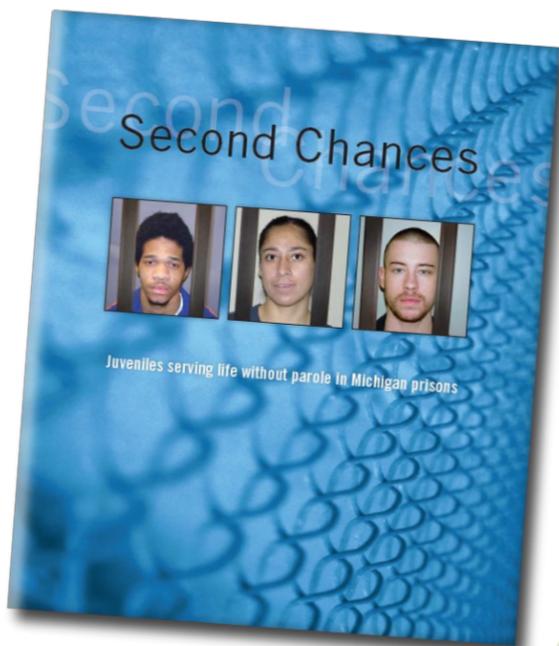
According to the opinion: "Ensuring the fairness of political processes, in particular, is essential, because an electoral minority is by definition disadvantaged in its attempts to pass legislation; and 'discrete and insular minorities' are especially so given the unique hurdles they face. Ensuring a fair political process is nowhere more important than in education. Education is the bedrock of equal opportunity."

For example, if an alumni association wanted children of alumni to be given extra consideration in admissions, it could simply lobby the admissions committee. However, under Proposal 2 restrictions, if students of color wanted to have their race considered as one of many factors in state university admissions, they would be required to embark on the arduous and expensive task of amending the Michigan Constitution.

The passage of Proposal 2 was a deliberate effort to prohibit precisely the types of admissions policies that the U.S. Supreme Court upheld in *Grutter v. Bollinger* (2003) as constitutionally permissible approaches to ensuring pathways to leadership.

## IN THE COURTS

The ACLU Legal Department, as usual, has been busy and successful, in recent months. Aside from the important cases discussed elsewhere in this newsletter challenging the new debtors' prisons, ensuring students of color have access to our universities, and exposing abuse of presidential power after 9/11, here are summaries of other key cases.



### Sentencing Kids to Die in Prison

Because of mandatory sentencing laws, Michigan judges sentence more kids to prison for the rest of their lives without the possibility of parole than the judges of any other state except one. Relying on a favorable U.S. Supreme opinion last summer, the ACLU is seeking to help hundreds of individuals who were sentenced as kids to obtain a parole hearing where a judge can determine whether they still pose a threat and whether they have been rehabilitated. In July, a judge ruled in favor of the ACLU and allowed a federal court challenge to mandatory juvenile life sentences to proceed. The ACLU is also representing several individual juveniles serving unconstitutional sentences and has filed friend-of-the court briefs in the Michigan Court of Appeals. (*Hill v. Snyder*; ACLU Cooperating Attorneys Deborah LaBelle and Ron Reosti and ACLU Staff Attorneys Steven Watt, Ezekiel Edwards and Dan Korobkin; *People v. Jones*; Attorneys: Dan Korobkin, Kim Thomas and Deborah Labelle; *People v. McCloud*; Staff Attorney Dan Korobkin)

### Debtors' Prison for Mother with Disability

After a lengthy hospital stay for a severe mental illness, Selesa Likine lost her job, custody of her three children and was assessed \$1,100 child support payments a month despite the fact that her only source of income was \$603 a month she received in Social Security benefits. The Friend of the Court mistakenly recommended the larger amount because of a commission Likine received in a one-time transaction selling real estate. When Likine failed to make her child support payments, she was arrested and jailed for more than 40 days. At trial, the judge refused to allow her to present evidence of her inability to pay and she was convicted of a four-year felony. The ACLU is representing Likine in the Michigan Supreme Court arguing that it is unconstitutional to convict a person for being too poor to make court-ordered payments. Oral argument was held in October and we are awaiting a decision. (*People v. Likine*; Cooperating Attorneys David Moran and Bridget McCormack of the University of Michigan Innocence Project and ACLU Legal Director Michael J. Steinberg)



◀ Selena Likine

### Racial Profiling by ICE

The ACLU is representing two Latino residents of Grand Rapids, Thelma and Luis Valdez, who were detained and assaulted by agents from U.S. Immigration and Customs Enforcement (ICE) even though Luis is a U.S. citizen and Thelma is a lawful permanent resident. The mother and son drove to their relative's house to show their 6-year-old cousin their new puppy when ICE agents pulled into the driveway demanding ID. Even though they both produced their Michigan driver's license, they were handcuffed at gunpoint and one agent banged Thelma's head against the car while yelling at her to admit that she was someone else. The ACLU has filed both a Federal Tort Claims Act complaint against ICE and a federal lawsuit to seek records about the disturbing incident under the Freedom of Information Act. (*ACLU v. Ice*; ACLU Staff Attorneys Miriam Aukerman and Michael J. Steinberg, ACLU Cooperating Attorney Rhett Pinsky and Michigan Immigrant Rights Coalition Attorney Susan Reed)

### No Warrant, No Breathalyzer for Minors

In September, the ACLU filed a lawsuit against the Livonia police for forcing a 13-year-old boy to take a breathalyzer on a middle school graduation field trip. After the teen and a couple of classmates went for a short walk in the woods, the assistant principal found an empty alcohol bottle in the woods and called the police. The breath test revealed that none of the students had been drinking. This lawsuit, which relies on victories in past ACLU cases, alleges that the police cannot force minors to take a breath test without first obtaining a search warrant. (*A.B. v. Livonia*; ACLU Attorneys Dan Korobkin and Michael J. Steinberg)

### Victory for the Right to Petition

This summer the ACLU received numerous requests for assistance from volunteers working on campaigns to recall the governor and other elected officials who have been prevented by public officials from petitioning in public areas. For example, Genesee County Park rangers told Denise Miller, a union activist, that she could not petition to recall Governor Snyder in the public parks without a permit. Miller applied for a permit to petition in Linden Park, but when the permit was finally granted the only place she could petition in the 135-acre park was an isolated, nine-square-foot "Freedom of Speech" area. The ACLU filed a federal lawsuit challenging the permit requirement in July and five days later the court issued an order allowing her to petition throughout the park without a permit. The court signed a consent judgment in October permanently protecting the right to petition freely. NOTE: The ACLU of Michigan has prepared a comprehensive "Know Your Petitioning Rights" guide available at [www.aclumich.org](http://www.aclumich.org). (*Miller v. Genesee County Parks*; ACLU Attorneys Michael J. Steinberg and Dan Korobkin and Cooperating Attorney Glenn Simington).



◀ Denise Miller

### Funeral Protest Law Struck Down as Unconstitutional

A federal judge ruled in September that the Michigan law making it a crime to do anything that would "adversely affect" a funeral violated the First Amendment. The ACLU won the case on behalf of a couple who were arrested for driving in a funeral procession of a dear friend who was killed in Iraq with bumper stickers and signs critical of the Bush administration on their van. (*Lowden v. Clair County*; ACLU Attorneys Dan Korobkin and Michael J. Steinberg and Co-counsel Hugh Davis)

### ACLU Files U.S. Supreme Court Brief in Religious Freedom Case

The Michigan and National ACLUs filed a friend-of-the-court brief in the U.S. Supreme Court supporting a teacher at a church-run school in Redford who sued the church for disability discrimination. The church contended that the court should dismiss the civil rights case, claiming that under the "ministerial exception," courts should not interfere in church matters. The ACLU argued that while faith communities clearly have the right to set religious doctrine free from government intrusions, they shouldn't have carte blanche to discriminate or retaliate against their em-

ployees for illegal reasons unrelated to church doctrine. Because there is ample evidence in this case that the teacher, who primarily taught secular subjects, was fired because of her disability, and not for any religious reason, she should have her day in court. (*Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*; ACLU Attorneys Daniel Mach and Michael J. Steinberg)

### ACLU Sues for FBI Records on Collection of Racial and Ethnic Data

According to a 2008 FBI operations guide recently acquired by the ACLU, the FBI agents have the authority to collect information about, and create maps of, so-called racial and ethnic "behaviors" and "lifestyle characteristics" in communities with concentrated ethnic populations. Concerned that such information would be used for racial profiling, the ACLU requested documents related to this practice in Michigan under the Freedom of Information Act. However, the FBI refused to turn over the documents in a timely manner and the ACLU filed a FOIA lawsuit in July. Thus far, the ACLU has been able to confirm that the FBI has been collecting data on Middle Eastern and Muslim populations, but the FBI has not yet released documents describing the details. (*ACLU v. FBI*; ACLU Cooperating Attorney Stephen Borgsdorf of Dykema Gossett PLLC and ACLU Staff Attorneys Mark Fancher, Hina Shamsi and Nusrat Choudhury)

### Victory for Right of Blogger to Criticize Warren Officials Anonymously

The ACLU successfully represented a blogger who posted a message on an online forum for Warren politics. The post questioned the legitimacy of Assistant City Attorney Ronald Papandrea's bankruptcy filings, suggesting that he had arranged to retire, file for bankruptcy and then be rehired after his debts were discharged. Papandrea, who was running for city council, filed a defamation suit against the anonymous blogger and then sought a court order requiring the Internet service provider to reveal his identity. Concerned about the attempt to stifle protected political speech, the ACLU represented the blogger and the judge ruled in his favor. (*Papandrea v. Doe*; ACLU Cooperating Attorney William Burdett and Staff Attorney Dan Korobkin)

### Michigan Supreme Court to Hear First Medical Marijuana Case

The ACLU is representing a man with severe and chronic back pain in the first case before the Michigan Supreme Court to address medical marijuana. The Michigan Medical Marijuana Act (MMMA), which was enacted by a wide majority of Michigan voters in 2008, allows individuals with a doctor's recommendation to obtain a state-issued card and grow up to 12 marijuana plants in a "closed, locked facility." Larry King, after receiving a medical marijuana card, grew his plants in a closed, locked, six-foot-high dog kennel. Nonetheless, he was charged with a drug possession because the kennel did not have a roof. The ACLU will argue that King was following with the MMMA, but even if he was not in strict compliance, the charges must be dismissed under the "affirmative defense" provision that protects people against criminal prosecution if they are using marijuana on the advice of a physician. (*People v. King*; ACLU Cooperating Attorney John Minnock and Staff Attorney Dan Korobkin)

### College Policy Barring All Students on Sex Offender Registry Amended

Last year, Lake Michigan College adopted a policy expelling any student who was listed on the Michigan Sex Offender Registry without any hearing or determination that the student was dangerous. The ACLU, representing a college student who had wide support inside and outside the college, negotiated a new policy for all LMC students. Under the new policy, students cannot be expelled or denied admittance unless there is a finding that she or he poses a risk to public safety. The ACLU client won reinstatement to the college under the new policy after a hearing where his professors, therapist, landlord and parole officer testified about his character and rehabilitation. (ACLU Staff Attorneys Miriam Aukerman and Jessie Rossman and Cooperating Attorney Greg Ladewski)

### Denying Parenting Time to Marijuana Patient

An Oakland County judge terminated a mother's unsupervised parenting time solely because she was a state-approved medical marijuana patient. The judge acted under the mistaken impression that the Michigan Medical Marijuana Act only protects patients against criminal prosecution. In fact, the act specifically provides, "A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated." The ACLU is representing the woman on appeal. (*Snowden v. Kivari*; Cooperating Attorney Marjorie Cohen and Staff Attorney Dan Korobkin)



Joseph Casias

## ACLU Appeals Medical Marijuana Case for Cancer-Stricken Wal-Mart Employee

The Michigan Medical Marijuana Act was enacted to help people like Joseph Casias. Casias suffers excruciating pain from sinus cancer and a brain tumor in the back of his head and neck that was the size of a softball when it was first diagnosed. After the MMMA was passed, his oncologist recommended marijuana to cope with his pain and nausea. Casias registered with the state and the marijuana he smoked at night after work gave him immediate and profound relief. Although Casias was named Wal-Mart's employee of the year in 2008 and the MMMA protects patients from "disciplinary action by a business," Wal-Mart fired him when it learned that he was a medical marijuana patient. The ACLU is representing Casias in an employment discrimination case, which should be heard by the U.S. Court of Appeals this winter. (*Casias v. Wal-Mart*; ACLU Attorneys Scott Michelman and Dan Korobkin and Co-counsel Daniel Grow)

## Rochester High School Stops Filtering LGBT Online Resources

Some high schools in Michigan have set the filters on their computers to block access to all LGBT resources, including information about school Gay Straight Alliance organizations. As part of the "Don't Filter Me" campaign, the ACLU wrote a letter to Rochester High School explaining that a blanket ban on all LGBT online materials is unconstitutional censorship. The high school responded by fixing the settings. (ACLU Attorneys Jay Kaplan and Joshua Block)

## South Haven Adopts Policies to Stop Proselytizing by Minister During School

With the assistance and urging of the ACLU, the South Haven Schools adopted district wide policies addressing religion in the school that respects the rights of all students. The new policies were adopted after a local youth minister who was volunteering in the school was recruiting students for church events during lunchtime. When one student changed his mind about attending a bible retreat, an assistant principal brought the student into a room with the minister and chastised him. (ACLU Cooperating Attorney James Rodbard and ACLU Lawyers Michael J. Steinberg and Heather Weaver)

## Grad Students Studying Counseling Cannot Refuse To Help LGBT Clients

The ACLU filed a friend-of-the-court brief in the U.S. appeals court supporting Eastern Michigan University's



Julea Ward

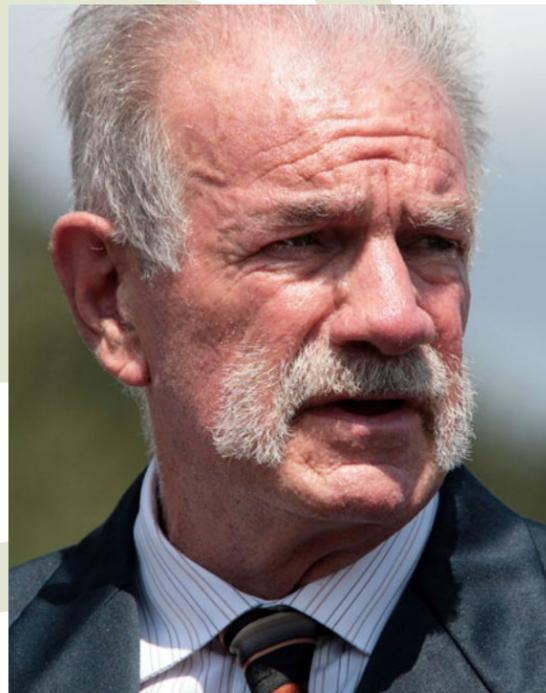
right to remove from its counseling program a graduate student who refused to counsel lesbian, gay and bisexual clients on any issues relating to same-sex relationships during her clinical training. The ACLU argued that while counselors are entitled to their own religious beliefs, EMU correctly took steps to prevent Julea Ward from imposing those beliefs on her clients and discriminating against clients in the university's training program. EMU's counseling program requires its graduate students to adhere to the American Counseling Association Code of Ethics, which prohibits counselors from discriminating on the basis of sexual orientation or imposing their personal beliefs on clients. (*Ward v. Wilbanks*; ACLU Attorneys Rose Saxe, Daniel Mach and Michael J. Steinberg)

## ACLU Warns State Jails about Costly, Unlawful Detention of Immigrants

In order to prevent future unlawful detention of immigrants, the ACLU sent letters to officials at every jail in the state clarifying their legal responsibilities when receiving federal requests to detain immigrants who would otherwise be released. ACLU explained that when the Immigration and Customs Enforcement (ICE) issue an "immigration detainer" for an individual, there has been no judicial ruling that the person has done anything wrong and jail officials may not legally detain that person for more than 48 hours. Moreover, the detainer is simply an optional request to hold the person and ICE often does not reimburse the jail for the cost of holding the person. The ACLU sent the letter with the Michigan Immigrant Rights Coalition. (ACLU Staff Attorneys Miriam Aukerman and Michael J. Steinberg and MIRC Lawyer Susan Reed)

## Wayne County Prosecutor Jails Terry Jones For Future Speech

This spring, controversial pastor Terry Jones and a cohort David Sapp planned to have a small peaceful protest in Dearborn in front of the largest mosque in the country. However, before they had a chance to protest, Wayne County Prosecutor filed a lawsuit "to prevent crime" under Michigan's "peace bond" statute. The ACLU filed a friend-of-the-court brief arguing that while it found Jones and Sapp's speech offensive, it is not a crime to protest in the public right of way and the prosecutor's lawsuit was an unconstitutional "prior restraint" on speech. The judge refused to dismiss the case, however, and when a jury ruled against Jones and Sapp, the judge barred them from protesting near the mosque. The case is on appeal. (*People v. Jones*; ACLU Attorney Michael J. Steinberg, with assistance from Fellow Zainab Akbar)



Terry Jones

## Racist Incident on School Bus

The ACLU filed a complaint against the Van Buren School District with the Michigan Department of Civil Rights on behalf of a 10-year-old African American student after the student was called a vile racial slur on the school bus. Rather than address the problem, the principal told the student's mother that she should withdraw the student from the school district if she was not happy. The case was mediated and the district agreed to adopt diversity training for its employees to help ensure that incidents like this are approached more constructively in the future. (ACLU Staff Attorney Mark Fanher with assistance from law intern Crystal Redd)

## Terminating the Rights of Parents Without a Finding of Unfitness

The ACLU filed a friend-of-the-court brief in the Michigan Supreme Court on behalf of a father, Wali Phillips, whose rights to his children were terminated even though there was no court finding of neglect or abuse. Phillips was separated from the mother of his young children when the mother left the kids at home alone. Although Phillips had done nothing wrong, the court ordered that both he and the mother comply with a "service plan." Phillips went to parenting classes and did what he was told to do except for missing a couple of counseling sessions due to a conflict with a class. Because he missed the counseling sessions, however, the court terminated his parental rights. The ACLU brief argued that it is unconstitutional for the state to take away a parent's right to care for his or her children without a court finding that the parent is unfit. (In re Mays; ACLU Cooperating Attorneys Amy Sankaran and Timothy Pinto and ACLU Legal Director Michael J. Steinberg)

## Sexual Orientation Employment Discrimination Case

Ricky Davis is an inmate who filed an employment discrimination case on his own, claiming that he was removed from his public works job because he was gay. A federal judge, without the benefit of any briefing, dismissed Davis' Equal Protection civil rights claim, ruling that there is no protection whatsoever for discrimination based on one's sexual orientation. The ACLU is representing the inmate on appeal, arguing that, as most courts across the country have held, the government cannot discriminate against gay men and lesbians when there is no rational basis for the adverse treatment. (*Davis v. Prisoner Health Services*; ACLU Attorneys Joshua Block, Miriam Aukerman and Jay Kaplan)

## U-M Changes Trespass Rules After ACLU Advocacy

Until recently, University of Michigan public safety officers have had the power to permanently ban any person from campus if the officer suspects the person of failing to comply with university rules. At least 2000 people were banned under this rule and face trespass charges if they step on campus - including for a political event. After the student ACLU chapter and the state ACLU protested that the policy as unconstitutional and met with the general counsel, the university revised the policy. The new policy limits the circumstances under which a trespass warning can be issued, limits the duration of the warning to a year, has a better appeal process, and is more protective of free speech. (ACLU students Mallory Jones and Bennett Stein and ACLU Lawyers Michael Steinberg, Jessie Rossman and Zainab Akbar).

## ACLU Gun Case

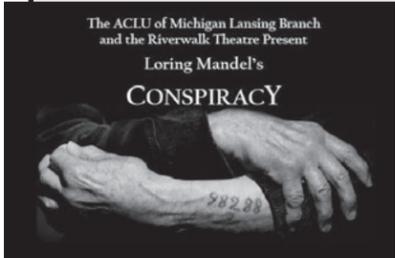
In August, the ACLU wrote a letter to the Farmington Hills Police Department on behalf of a local gun owner demanding the return of three registered firearms that were seized from his home. The police seized his guns this July after receiving a complaint that his housemate, who was not in the house, might be suicidal. However, even six weeks after the police determined that the housemate was not suicidal, the police would not return the guns. After receiving the ACLU letter, the police chief immediately returned the firearms, apologized and thanked the ACLU for protecting civil liberties. (Cooperating Attorneys David Moran and Syeda Davidson and Staff Attorney Dan Korobkin)

## More Debtors' Prison Cases

In addition to the several cases mentioned on page 1, the ACLU has helped two 17-year-old girls who were going to be sent to jail for inability to pay fines - one in Lapeer and one in Muskegon. After the ACLU became involved in the Lapeer case, the court agreed to a reasonable payment plan that the family could meet. The Muskegon case is still pending. Many thanks to the numerous ACLU Cooperating Attorneys who devoted countless hours to the ACLU's efforts to put an end to the new debtors' prisons, including Ken Mogill, Glenn Simmington, Anthony Greene, Melissa El, Penny Beardslee, Frank Eaman and Peter Walsh. We'd also like to thank ACLU national attorneys and the attorneys of Cravath, Swaine and Moore, LLP.

Free to Read, Free to Create

Celebrating freedom of expression and the press, the ACLU of Michigan Southwest Branch marked National Banned Books Week in September by defying censorship at their Banned Books Read-Out. Local activists and celebrities read from the year's most frequently banned and challenged books. Each year, local artists are invited to enter the Banned Books Art Contest, creating works inspired by one of the featured banned books. This year's winner in the Adult category was Randal Brumitt with a piece entitled The Hope List. Hannah Higgins took top prize in the Junior category with her piece inspired by Huck Finn. This year's runner-up winners were Maryangela Thornton for Stay Alive and Maureen Reed with Huck & Jim. Congratulations to the winners, and to all who enjoy the freedom to read.



Remembering a Dark Chapter of History

The ACLU of Michigan Lansing Branch's annual theater fundraiser featured the world premiere of the stage adaptation of Loring Mandel's dark drama Conspiracy. Originally an acclaimed HBO film, Conspiracy raises troubling questions about the dark side of human nature, dramatizing the gathering of Nazi leaders that led to the horrors of the Holocaust. Following the performance, the Emmy Award-

winning author Loring Mandel and director James Houska led a spirited discussion of the play, based on transcripts of actual events.

Art & Civil Liberties: A Match Made at the ACLU

This year, the ACLU of Michigan Western Branch teamed up with Fountain Street Church to present Art and Civil Liberties, an art exhibit for Grand Rapids' annual ArtPrize. Twenty-one artists were represented at the venue, each with his or her own perspective on the importance of liberty and respect for individual rights. Chicago-area artist Dominic Sansone's piece Brand New God took the top ACLU of Michigan prize. The installation fills the church's chapel with rows of small human figures of all colors worshipping a central idol: a gilded AK-47 rifle. The Fountain Street Church's Social Action Committee's top prize was awarded to Michigan artist Brad VanderMoere's We's Goin' To Washington! The oil painting decries the disconnect between citizens and their representatives. Both pieces were also voted among the top 25 ArtPrize pieces in the Hillside Neighborhood.



Honoring Legal Pioneers in Flint

In September, the ACLU of Michigan Flint Branch honored heroes at their annual Civil Libertarian of the Year Awards. Since 1980, the Thomas A. Baltus Civil Libertarian of the Year Award has been presented to individuals in recognition of their years of work protecting and preserving our essential civil liberties. This year's award was presented to Flint-area attorneys Olof Karlstrom, Carl Bekofske and civil rights pioneer C. Frederick Robinson. In addition to the awards presentation, Dr. Virginia Rezmierski discussed technology and emerging law in her keynote speech, Electronic Privacy Under Assault.



ACLU Legal Observers: On the Frontlines of Free Speech

On a frigid April morning in Ann Arbor, Governor Rick Snyder delivered the commencement address before the University of Michigan's graduating class of 2011. Governor Snyder's participation in the ceremony was met with protests. Thankfully, ACLU staff, Washtenaw Branch members and dedicated volunteers were



on the scene as ACLU Legal Observers to ensure that everyone's right to free speech and assembly were respected.

Ending the Failed War on Drugs

Fast on the heels of the recent Global Commission on Drug Policy's report that the War on Drugs has been a colossal failure, the ACLU of Michigan Oakland County Branch hosted an open forum on current federal and state drug policy. An engaged crowd discussed recent legal developments and strategies to end the failed experiment that is America's war on drugs with drug policy expert Mike Whitty.

Keeping Michigan Students in School

The ACLU of Michigan Metro Detroit Branch has taken up the cause of Michigan's children, promoting the right to a quality education for all students. This past spring, the branch hosted a panel discussion on the school-to-prison pipeline moderated by ACLU of Michigan Racial Justice Project Staff Attorney Mark Fancher. Experts from education, law enforcement and the juvenile justice community discussed school discipline, zero tolerance policies and the role of police in schools with parents, students, state and federal lawmakers and other prominent community members of the Metro Detroit area.



Graduation, Not Incarceration: Ending the School-to-Prison Pipeline

Around the state, ACLU of Michigan branches are collaborating with parents, students and educators to keep students in school and out of the criminal justice system. This school-to-prison pipeline is the result of laws and policies that pushing children out of schools for minor misbehavior. This fall, a series of public forums around the state are raising awareness of the School-to-Prison Pipeline, educating the public on the work the ACLU is doing as well as building our statewide coalition.

Lansing-area students, teachers and parents will gather on October 25 to discuss the complex balance between school safety and students' rights at Foster Community Center at 7:00 p.m. Expert activists and advocates will offer tools to create needed change in our schools and ensure students are afforded the right to due process, free expression and privacy.

Check our website for announcements about additional upcoming school-to-prison pipeline forums in your area.

Teaming up to Help Michigan's Forgotten Children

The ACLU of Michigan held a one-day conference in May for family and friends of individuals sentenced as juveniles to life in prison without parole. The conference created a wonderful opportunity for all those passionate about ending unjust sentences that deny children a meaningful opportunity for parole. Building upon our success, we'll be conducting a series of advocacy trainings with the attendants of the conference. Upcoming advocacy trainings will strengthen our grassroots efforts, empowering family members and activists to influence the Michigan legislature to challenge this cruel and unusual punishment.

Contact [rmonts@aclumich.org](mailto:rmonts@aclumich.org) if you are interested in receiving more information regarding upcoming training sessions.



Front Row Seats for the Thanksgiving Parade in Detroit

Join the ACLU of Michigan Metro Detroit Branch for our Fourth Annual Thanksgiving Day Party on Thursday, November 24th. Purchase your ticket early to get a front row seat to watch America's Thanksgiving Day Parade from the warmth of the ACLU of Michigan office, located right on the parade route. Tickets are \$25 for adults, \$10 for children 6-16, and free for the little ones. A delicious brunch and beverages will be provided, as well as a drawing to win some great prizes. Limited parking available for a \$25 fee. Reserve your space today at [www.aclumich.org](http://www.aclumich.org)

Celebrate Bill of Rights Day with the Metro Detroit Branch

The Metro Detroit Branch will be celebrating the 220th anniversary of the Bill of Rights by honoring the memory of Dr. Eugene Perrin at the Swords into Plowshares Peace Center on December 15th. Dr. Perrin was a leader for peace, environmental protection and social justice in Detroit, as well as a beloved member of the Metro Detroit Branch Board. As always, hors d'oeuvres and wine will be served. Advance tickets to the celebration are \$20. For more information and ticket purchase, visit [www.aclumich.org](http://www.aclumich.org).



Exploring Privacy in the Digital Age in Kalamazoo

On November 2, the ACLU of Michigan Southwestern Branch will complete their series of Student Civil Liberties Lectures with The Surveillance Society: Privacy in the Digital Age at Western University. Expert Dr. Virginia Rezmierski will discuss how our civil liberties are adapting to an increasingly digital age. Technology is moving so fast that legislation protecting our rights often lags behind, undermining our freedom and moving us closer to a surveillance society. This event is free and open to the public.



ACLU COMMENDS TRAVERSE CITY SCHOOLS FOR REVISING HARSH ZERO-TOLERANCE POLICY

In October, the ACLU of Michigan commended Traverse City Area Public Schools for amending its zero tolerance policy, which had previously allowed the district to call police on students caught stealing items worth \$5 or more on campus. The organization encourages school districts across the state to follow suit and narrow the scope of their zero tolerance policies.

Earlier this year, the organization contacted school officials to urge them to reconsider the inclusion of minor offenses in the district's zero tolerance policy, requiring suspension and the notification of police for the petty theft of items \$5 or more in value. The school district agreed that this was not appropriate and revised the zero-tolerance policy to include only major instances of theft.

"Zero-tolerance policies are meant to protect our school from the most extreme offenses," said Marvin Stamatakis, ACLU of Michigan Northwest Branch president. "While this is a relatively minor revision, changes like these can drastically decrease the likelihood of children being needlessly pushed out of school or into the justice system. Stealing lunch money shouldn't warrant the involvement of law enforcement or possible expulsion."

In addition, school officials agreed to include a brief description of the district's due process policy along with disciplinary notices sent to parents of students facing punishment in order to clarify student's rights and responsibilities.

Since the beginning of 2011, the ACLU of Michigan has launched a state-wide evaluation of school zero-tolerance and due process policies. This campaign seeks to end misguided school disciplinary policies that lead to the condition referred to as the school-to-prison pipeline, the national trend of criminalizing student behavior that results in children being pushed out of school in high numbers.

Traverse City is home to one of seven school-to-prison pipeline committees the ACLU of Michigan has established to work to ensure student's rights are protected, promote alternative discipline strategies to cut down on suspension rates, and to urge Michigan lawmakers to pass a bill narrowing offenses included in zero tolerance policies to the possession of a firearm.

If you would like to help in the ACLU of Michigan's efforts in your area, email [education@aclumich.org](mailto:education@aclumich.org).

## Sex, Drugs and Education Reform: ACLU takes on the State Legislature

We are coming to the halfway mark in the 2011-2012 legislative session and, so far, it has been quite remarkable. The Snyder administration quickly departed from 'business as usual' where policy initiatives took months and years to accomplish and, like it or not, has been swift and focused about signing sweeping policies into law. Back from the summer recess, Lansing is readying for the next round of reform. Over the next several months the ACLU of Michigan is going to be fighting for your civil liberties as we address reforms to public education, the Medical Marijuana Act, and access to reproductive health care.

In an attempt to further sweeping reforms in public education, a package of bills fallaciously titled the Parent Empowerment Education Reform Package was introduced this September. This body of legislation is designed to remove the constraints around Public School Academies (Charter Schools) in Michigan and sanction the use of non-union staff in public schools. The package, Senate Bills 618-624, allows a limitless number of charter schools without geographically imposed boundaries, allows a majority of parents and/or teachers to vote to convert a school to a charter-like entity, expands the use of cyber schools (on-line learning), expands the use of public money for private and religious education, requires school districts to accept out-of-district students where space is available (open enrollment), and allows schools to outsource the hiring of instructional staff to non-union companies.

The ACLU of Michigan believes every student in Michigan has the right to an adequate public education regardless of where they live or go to school, and we are working in coalition with various interested parties to make sure that these legislative reforms respect every family's access to a quality education. As this package of bills moves through the process and is debated at committee hearings and on the floor of the legislature, we will be closely scrutinizing the debate in order to identify and respond to those issues that impact civil liberties.

The Michigan Medical Marijuana Act is a hot-button issue. As parts of the Act are being challenged in Michigan courts, its advocates are visible and vocal in expressing concern over legislative efforts to undermine the intent and protections of this voter-approved initiative. More than a dozen bills have been introduced that would change the law, most of which would require a supermajority vote by the Michigan legislature. The ACLU of Michigan has reviewed the bills and established our position, but also identified

where we can offer amending language to preserve the intent of the Act while allowing for necessary clarification as the Act is being implemented.

Over this past decade, access to reproductive health care has been steadily eroded by legislative fiat. Given the numbers of extreme social conservatives voted into office during the last election cycle, we are not surprised by the extent of anti-choice, anti-reproductive health care legislation introduced so far. And even though the Governor has repeatedly signaled that he is not interested in moving controversial social issues like measures that would restrict access to abortion, we know that the Republican Caucus expects the Governor sign key anti-choice bills into law in exchange for their support of his budget priorities and anti-union initiatives.

There are a number of bills that would severely limit access to abortion, and some that could interrupt access to contraception. Other anti-choice bills would identify a fetus as an individual for legal purposes; impose unattainable regulations on the disposal of medical waste as a result of a pregnancy; revise parental consent and ultrasound laws when seeking an abortion; prohibit even private insurance coverage for abortion services in health care exchanges; and ban certain late-term abortion procedures in Michigan regardless of the health of the mother even though it's already illegal under federal law.

On a more positive note, a package of bills promoting common sense measures to increase access to reproductive health care and information have also been introduced. These bills would require hospitals to offer rape survivors emergency contraception; require that sex education curricula in public schools is medically accurate and objective; prohibit insurance companies that offer prescription coverage from removing contraceptive coverage; and require insurance companies to cover pap smears and infertility treatment.

As always, we need you to let Lansing know where you stand on these bills, both good and bad. Stay tuned to the latest news on legislation that affects your rights and get access to background information and position statements on our website at [www.aclumich.org](http://www.aclumich.org). The ACLU Legislative office

can help you establish contact with your legislator, as well as provide you with toolkits, reports and talking points to aid you in your advocacy. We are happy to provide lobby training and tips on building awareness and we welcome and encourage our members to spend a day at the Capitol to meet with your legislators and engage in the legislative process. Please feel free to contact the Legislative Office ([sweisberg@aclumich.org](mailto:sweisberg@aclumich.org)).



## BIOBANKING YOUR BLOOD: DO YOU KNOW WHERE YOUR CHILD'S DNA IS?

Did you know that the State of Michigan has a biobank with the blood samples of nearly every baby born in the state since 1984? If you had no idea, you are not alone. Fortunately, there are now steps you or your child can take to control what happens to your DNA.

Under the newborn screening program, a few small drops of blood are collected from the heel of all newborns in Michigan to test for rare but serious diseases. The

tests are capable of identifying 49 treatable disorders, including phenylketonuria (PKU) and sickle cell anemia. Newborn screening is a vital public health program that literally saves lives.

But what happens to a child's leftover blood spots after newborn screening is complete? You may think that they are simply discarded, but they're not. Unused blood spots are stored forever in a facility called the Michigan Neonatal Biobank.

In 2009, the Michigan Department of Community Health decided to make these leftover blood spots available to scientists for clinical research. Because these blood spots represent a wide cross-section of the public, the biobank is a valuable repository of data and specimens for research scientists. However, the clinical research program also raises serious questions about genetic privacy and the right to control what happens to you and your child's DNA.

A representative of the ACLU of Michigan sits on the Community Values Advisory Board (CVAB), a committee that provides guidance to the health department on ethical, privacy, and educational issues surrounding the biobanking and clinical research program. The CVAB created informed consent materials that are now given to the mother of every newborn so she can learn about biobanking and decide whether to participate. The informed consent process began in 2010.

### What you should know:

There are two separate Michigan public health programs that use the blood spots:

- Newborn screening tests infants for serious diseases. A few drops of blood are taken from each newborn's heel, placed on a paper card, and sent to the lab. Parents do not opt out of this program.
- The Michigan BioTrust for Health makes leftover blood spots available for scien-

tific research. The blood spots are labeled with a barcode so that no personally identifying information is disclosed to the researcher. Under current state and federal law, the blood spots are also protected from law enforcement access and other potential privacy violations.

### Your choices:

Despite assurances that privacy will be protected, not everyone is comfortable with their or their child's DNA being part of a large biobank. If you or your child was born after July 1984, you have three options:

- 1) do nothing, and the dried blood spots will continue to be stored and used for research;
- 2) allow the samples to remain stored but no longer available for research by completing and submitting a form entitled "Directive to Remove Residual Newborn Screening Blood Specimen from Possible Research Uses"; or
- 3) remove the samples from the biobank completely by completing and submitting the form entitled "Directive to Destroy Residual Newborn Screening Blood Specimen."

To locate these forms, go to [www.michigan.gov/biotrust](http://www.michigan.gov/biotrust) and click on "Consent Options," or call (866) 673-9939 to request assistance.

— Attorney Joyce Kornbluh, volunteer



## In Michigan, you could be fired for being gay

## COALITION LAUNCHES CAMPAIGN TO UPDATE STATE'S CIVIL RIGHTS LAW TO INCLUDE ALL MICHIGANDERS

In honor of National Coming Out Day, the ACLU of Michigan and local gay and transgender advocacy groups launched a social media campaign to raise awareness that in Michigan you can still be fired if your employer even thinks you are gay.

Although that may sound impossible, in Michigan it's the law. The state's civil rights laws protects against many forms of discrimination – based on race, gender, religion, age, sex, weight or marital status – but not if you are gay or transgender.

That's why the Unity Michigan Coalition has launched a campaign to change the law. We need to protect all Michigan jobs by ending discrimination, of any kind.

The campaign urges Michigan's House Speaker Jase Bolger to update the state's non-discrimination law with a simple message: DON'T CHANGE YOURSELF. CHANGE THE LAW.

Visit [www.DONTCHANGEYOURSELF.org](http://www.DONTCHANGEYOURSELF.org) to sign our petition and hear more from Michiganders who have been fired for being gay or transgender.

The Unity Michigan Coalition works to ensure that all Michiganders are treated fairly in the workplace by advancing nondiscrimination policies. It includes the ACLU of Michigan, Affirmations, Equality Michigan, KICK, the Michigan Roundtable for Diversity and Inclusion, and the Ruth Ellis Center.

In Michigan you can be fired just for being gay?

REALLY!

TELL SPEAKER BOLGER TO CHANGE THE LAW



## TELL YOUR STORY AT OUR ANNUAL DINNER

Behind every case, client and principle the ACLU of Michigan defends, there is a human story of commitment, sacrifice and triumph. The struggle for civil liberties in our state is best told through these stories.

Join our cohosts at our Annual Dinner on November 5 as we celebrate the stories behind our essential freedoms at the Henry Ford Museum in Dearborn. The evening will begin with a cocktail reception at 6:30 p.m.

We'll be joined by special guest professor, pundit and author Melissa Harris-Perry. A familiar face to many as a guest host of the Rachel Maddow Show, Melissa is a political powerhouse and frequent contributor to MSNBC.

As well as writing a regular column for The Nation magazine, Melissa Harris-Perry is author of *Barbershops, Bibles, and BET: Everyday Talk and Black Political Thought* and *Sister Citizen: Shame, Stereotypes, and Black Women in America*, which Henry Louis Gates, Jr. heralded as sure to "change the conversation about the rights, responsibilities, and burdens of citizenship."

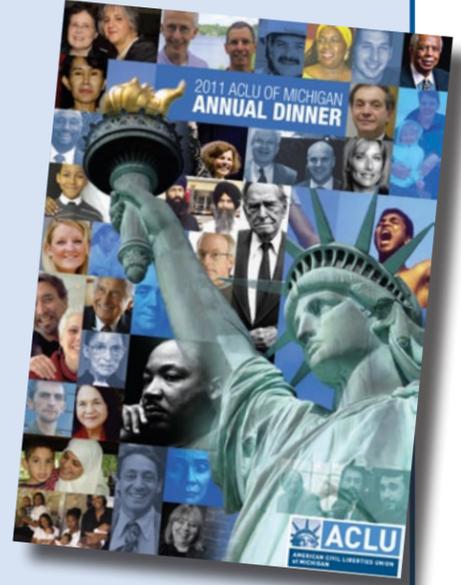
Each year the ACLU of Michigan honors those that are working to advance the cause of civil liberties and civil rights in Michigan. This year, we are proud to honor the law firm of Cravath, Swaine & Moore for their long-standing commitment to pro bono work, devoting more work hours to ACLU of Michigan cases than any other firm in the country.

Over the past five years, the firm has volunteered nearly 10,000 hours on three major ACLU projects - our legal challenges to ensure poor defendants have access to adequate counsel; working to guarantee students of color access to our colleges and universities; and our campaign to end "pay or stay" sentences on behalf of individuals illegally jailed for being too poor to pay court fines. We thank Karin DeMasi, Julie North and their teams for their generosity.

In recognition of the 10th anniversary of the ACLU of Michigan LGBT Project, we are honoring Allan Gilmour and Eric Jirgens, Stacey Cassis and Dr. Arianna Morales, and Henry Grix and Howard Israel. The tremendous leadership of these six individuals has helped the fight for equal rights gain momentum in Michigan.

A decade ago, the ACLU of Michigan launched a groundbreaking legal and advocacy project to defend the rights of our state's lesbian, gay, bisexual and transgender residents. Although the fight for equality has never been easy, the tireless dedication of these individuals help us look to a day in which LGBT people can live openly without discrimination and all families are recognized and respected.

Tickets to our Annual Dinner are \$150 per person for ACLU members and \$200 for non-members. A limited number of young activist tickets are available for \$75 to supporters who are under 35. A limited number of student tickets are also available for \$50.

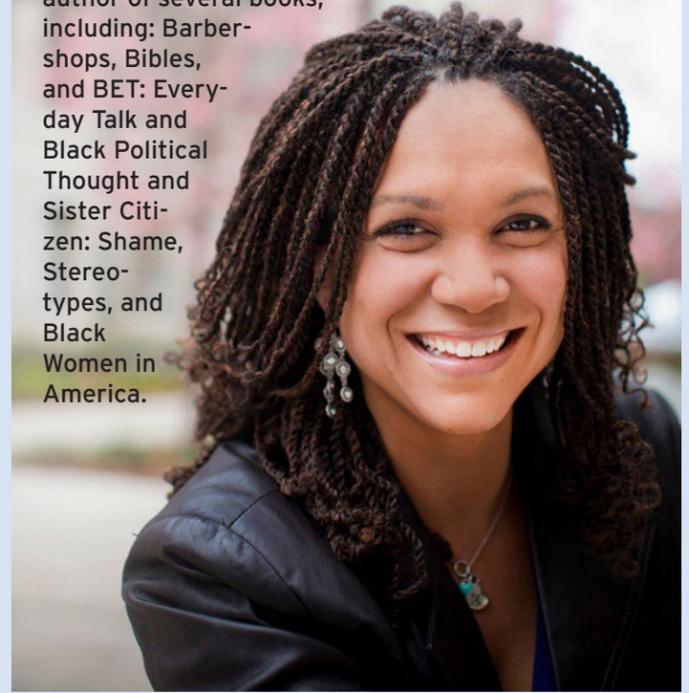


Saturday, November 5, 2011

Cocktail Reception 6:30 PM  
Program Starts at 7:30

The Henry Ford Museum  
20900 Oakwood Blvd.  
Dearborn, MI 48124-5029

**Melissa V. Harris-Perry** is professor of political science at Tulane University, where she is founding director of the project on gender, race, and politics in the South. A columnist for The Nation magazine, Harris-Perry is also a regular contributor to MSNBC, appearing on the Thomas Roberts Show, The Rachel Maddow Show and The Last Word. She is author of several books, including: *Barbershops, Bibles, and BET: Everyday Talk and Black Political Thought* and *Sister Citizen: Shame, Stereotypes, and Black Women in America*.



For more information or to reserve your seat, visit [www.aclumich.org](http://www.aclumich.org)

### LEVELS OF SUPPORT AND BENEFITS

#### Premium Packages:

All premium packages include reserved seating, complimentary valet parking, invitations to a private afterglow with Melissa Harris-Perry and signed copies of her latest book *Sister Citizen: Shame, Stereotypes, and Black Women in America* for sponsor and guests.

*Constitutional Champion - \$7,500*

*Bill of Rights Defender - \$5,000*

*Civil Liberties Sponsor - \$2,500*

*Student Table Sponsor - \$2,500*

*ACLU Volunteer Appreciation Table Sponsor - \$2,500*

*Honorary Host \$1,000*

#### Individual Tickets

*Member - \$150*

*Non-Member - \$200*

*Under 35 - \$75*

*Student and Fixed Income - \$50*

## OVERDUE AND TIME TO RENEW?

If your membership in the ACLU has expired, we want you back! Membership income makes up more than 50 percent of our annual budget. But it's not just money that helps us protect your rights. Membership in the ACLU increases our lobbying strength. Lawmakers take note when we announce in Lansing that we represent more than 10,000 voices in Michigan.

Make your voice heard. Check the mailing label on this newsletter. If the expiration date indicates that you

are past due, please use the enclosed envelope to renew your membership or go online to our secure website, [www.aclumich.org](http://www.aclumich.org). Please note that if you have renewed your membership within the past six months, any extra membership gift you make at this time will not advance your expiration date and will instead be treated as an additional gift.

Membership contributions to the ACLU are not tax-deductible.

Thank you for helping the ACLU fight for your rights.

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