

ACLU Colorado

FALL/WINTER 2020 NEWSLETTER



DEMOCRACY PERSISTS.

HOPE IS A DISCIPLINE

Letter from the Interim Executive Director

It feels like we have been fighting forever.

Centuries of systemic racism, decades of police violence and mass incarceration, months of living with a pandemic and just weeks after the most consequential election in U.S. history is enough to make anyone weary. But now is not the time to rest. Now, is the time to fight for our democracy and do it in a way that others will want to join us. Now is the time to lead.

Justice Ruth Bader Ginsburg, legendary U.S. Supreme Court justice and founder of the ACLU Women's Rights Project, understood that real change, enduring change, happens one step at a time. It is the result of stamina, steadiness, confidence, and the ability to remain clear-eyed in the face of falsehoods and intimidation. The ACLU has been preparing for the trials we face today for the last one hundred years. In Colorado, as the state's oldest and largest civil rights organization, we've been fighting to protect and defend the civil rights and civil liberties of all our neighbors for the past 68 years. If it feels like we have been fighting forever it's because for many of us, we have. But it's not what we've done in the past that will define us. It's what we do today, when many politicians will stop at nothing to hold on to power and dismiss the will of the voters, that will determine the fate of our democracy.

Since the pandemic started, ACLU has filed more than 20 lawsuits across the country and launched the Let People Vote campaign to increase

voter turnout and access so everyone can vote safely and successfully. Every vote counts, and every vote must be counted.

Colorado has been a beacon for the nation when it comes to expanding voting rights and voting access. We have arguably the best election laws and systems in the country and often lead all other states in voter participation. This year, Colorado led again, shattering voter turnout records and showing the rest of the country that record voter turnout and safe and secure elections can and do coexist.

And once again, our country looked to Coloradans to defeat bad ballot initiatives like Proposition 115, a ban on abortion later in pregnancy regardless of health or individual circumstances, the fourth attempt to ban abortion by ballot initiative in Colorado in the last twelve years. And Colorado also led the way in passing ambitious measures like Proposition 118, guaranteeing paid family leave for all Colorado workers, and Proposition 113, supporting the national popular vote to ensure that every vote in a presidential election counts.

As we turn a page from one of the darkest moments in civil liberties and civil rights in this country's history, we look ahead with renewed hope and commitment to moving freedom forward. Hope is a discipline. And so is our democracy. So we will do what we have always done: hold our leaders and institutions accountable and fight to make the promises of our constitution and democracy real for everyone in our country. We know the bulk of civil liberties and civil rights challenges come from the state and local levels, including police, prosecutors, state legislatures, city councils, and state executives. This is true of criminal legal reform, reproductive freedom, and issues of race, sex, and LGBTQ+ equality. That work continues regardless of who is in the White House.

It feels like we have been fighting forever. But the only thing harder than continuing is stopping. Our democracy is worth fighting for. Now is not the time to rest. Now is the time to fight for the country we want to live in. Now is the time to rise. □

Sincerely,

Stephen Meswarb
Interim Executive Director
American Civil Liberties Union of Colorado

Power to the people. A crowd at the Colorado State Capitol protesting for Black Lives Matter. Photo: Vanessa Michel. Left: Dr. Apryl Alexander, a Black Lives Matter 5280 leader, at a rally in Greenwood Village, Colorado. Credit: Julius Fernan Garrido. Right: Denise Maes, ACLU of Colorado Public Policy Director, speaking to Colorado voters on November 7, 2020. Original artwork by Pablo de la Rosa Santiago.



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BIANEY BERMUDEZ

Communications Assistant (She/Her/Hers)



BianeY Bermudez joins the ACLU of Colorado as a Communications Assistant. With a Bachelor of Arts in Journalism from MSU Denver, BianeY has worked with Metrosphere magazine, Denver Life magazine, and MindSpark Learning.

GRACE HOFFER GITTELL

Public Policy Fellow (She/Her/Hers)



Grace recently graduated from Colorado College with a Political Science degree. She has interned for U.S. Senator Maggie Hassan and at the Harvard Kennedy School's Women and Public Policy Program.

ASMA KADRI KEELER

Staff Attorney (She/Her/Hers)



A graduate of American University Washington College of Law, Asma has worked with the ACLU of Wisconsin, the International Criminal Tribunal, and clerked for Hon. Thomas P. Mann in Virginia.

ANNIE KURTZ

Equal Justice Works Fellow (She/Her/Hers)

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Annie's fellowship project centers community-led litigation and advocacy calling for a response to homelessness in Colorado. A Harvard Law School graduate, Annie has clerked for Colorado Justice Monica M. Márquez.

NICOLE LOY

Paralegal (She/Her/Ella)



Nicole joins the ACLU of Colorado after earning an associate degree in Paralegal Studies from CCD and a bachelor's in Criminal Justice and Criminology from MSU Denver. She has also worked with the Meyer Law Office.

EMMA MCLEAN-RIGGS

Juvenile Justice Skadden Fellow (She/Her/Hers)



Emma has worked with the Colorado Juvenile Defender Center, and as a law clerk to Judge Carlos F. Lucero of the U.S. 10th circuit. She graduated from University of California Berkeley School of Law.

IVAN POPOV

Communications Assistant (He/Him/His)



Ivan joins the ACLU of Colorado as a graduate of MSU Denver with a degree in Public Relations and Interactive Digital Media. He has worked closely with nonprofits and activist organizations across Colorado.

ABORTION BANS HAVE NO PLACE IN OUR STATE

By Lizzy Hinkley, Reproductive Rights Policy Counsel and Kassandra Rendon-Morales, Reproductive Rights Campaign Coordinator

On Election Day, Colorado voters decisively rejected Proposition 115, a ballot measure aimed at banning abortion later in pregnancy. Proposition 115 was defeated by a crushing 59-41 margin, exceeding the margins of every statewide office and ballot measure, with the exception of the Tobacco Tax initiative. This victory for abortion rights marked the fourth time Colorado voters soundly repudiated anti-abortion measures at the ballot box in the last 12 years.

If passed, Proposition 115 would have made it a crime for doctors to provide abortion care starting at 22 weeks in pregnancy, with no consideration for the unique circumstances of each pregnancy. The one-size-fits-all ban would have prevented doctors from providing medical care that is best for their patients. With its defeat, Colorado remains a safe haven for patients and families within the state and across the entire country – many of whom travel to Colorado to seek compassionate care after being denied care by late abortion bans in their home states.

By voting our values, Coloradans have sent a message, loud and clear: abortion bans have no place in our state. We voted NO because we trust patients and families to make the personal medical decisions that are right for them, without political interference. We voted NO for every person who has ever needed – or may one day need – an abortion later in pregnancy.

Yes, the ACLU joined our No on 115 campaign partners to defeat this abortion ban, but we could not have done so without your help! You made calls, sent text messages, wrote letters to the editor, generously donated again and again, and educated your family and friends on why they too must vote NO. We did this together as a community and, Colorado remains and will continue as a leader in reproductive health, rights, and justice thanks to this collective effort.

The fight to protect and advance reproductive freedom does not end with this victory. In fact, it's just the beginning. The No on 115 campaign built a coalition of more than 1,000 volunteers, and hundreds of organizations and individual supporters, and we are committed to ensuring that every Coloradan has access to reproductive healthcare. To do so we must move beyond the bans and expand access to care. Please follow our movement at beyondthebans.org. □



Reproductive rights advocates gather outside a Cory Gardner and John Hickenlooper debate to show No on Prop 115 visibility. Left: Arriana Belkin, ACLU of Colorado Board Member and Public Affairs Manager at Planned Parenthood of the Rocky Mountains. Right: Justine Sandoval, Statewide Engagement Manager at Cobalt.

OUR VOTE, OUR FIGHT

By Jen Samano, Voting Rights
Campaign Coordinator

There's a lot to be said about the 2020 election, but one thing deserves a special spotlight – the success of voters, volunteers, local governments, and advocates of all stripes – triumphant in the face of tragedy. Against a federal government that is actively undermining the election in every possible capacity, against an informational landscape ripe for disinformation both foreign and domestic, and against the backdrop of a pandemic crisis out of control, an army of organizers, civil rights attorneys, and election volunteers rose up through the noise to deliver a peaceful election and shatter voter participation records nationwide.

Colorado has long played a leadership role in voting access and security but considering the pandemic our role has taken on particular import. This year, Colorado expanded turnout, trust, and safety by offering ballot tracking, providing mobile ballot curing options, and adding hundreds of drop box locations since 2016. Coloradans have been voting by mail since 2014. Under the leadership of the six past Secretaries of State, five of whom are Republicans, Colorado has seen substantive policies implemented to bolster our vote by mail; election administration is a matter of democracy, not partisan politicking.

When election night yielded no immediate results and President Trump made dangerous claims, we were ready, and so were the people. ACLU, in hand with a broad coalition of pro-democracy advocates, was prepared to quickly mobilize in any and all ways necessary to hold the government accountable to election results. Be it demonstrating publicly, protecting protesters, or heading to court – we were ready. Luckily, the cross-movement strategies paid off in a



resounding refusal to accept simultaneous attempts to claim both victory and voter fraud. A survey shows that two thirds of Americans did not expect to have results on election night. The people know what the President does not, that accuracy is more important than speed.

True democracy takes time. More mail-in ballots mean more time spent counting. It simply takes longer to process mail-in ballots for mundane reasons such as removal of ballots from envelopes and application of security protocols to verify each mail-in ballot. A lag in results is not only expected; it's a good sign that the process is working as it's supposed to. We count every vote because each and every vote counts.

Before the pandemic, voting by mail was already becoming more common nationwide. When the pandemic started, 34 states had laws permitting all eligible voters to cast their ballots by mail this November – leaving only 16 states without this option. The ACLU sued to help ensure that five of those 16 states – Missouri, Alabama, Connecticut, Kentucky, and South Carolina – expanded vote-by-mail eligibility to all voters for the general election.

Let's continue the policies that have increased voter access in recent elections, while expanding diversified language in election materials, youth participation, and support for incarcerated people in future elections. In 2020, America collectively fought hard on behalf of democracy. But now is not the time to rest on our laurels. Now is the time to go big and build a country, a home, we all can be proud of – one vote, one volunteer, one advocate at a time. □

FROM RECKONING TO REIMAGINING

By Jessica Howard, Racial Justice
Campaign Coordinator

It's hard to articulate the collective weight of this year for many of us. I'm sure there are poems one could write about all that this year was ... and wasn't.

In 2020, a continuation of the 2015 protests against racial injustice by law enforcement reached record engagement after communities took to the streets in response to the murders of George Floyd, Breonna Taylor, Elijah McClain, and too many others. Now, with more than 72 million votes for an administration that has offered no more than calls for "law and order" in response to those same cries of injustice, one wonders how much more reckoning is necessary in order to grapple with the racism permeating our political and social infrastructures, particularly the system of policing.

In October, we presented a three-part webinar series on the origins of policing and why reform won't eliminate racism. Our organizers Elisabeth Epps, Jen Samano and Julian Camera, taught that to achieve different outcomes of police interactions is to create a vision for our community that doesn't rely on policing to address social issues. Effectively advocating our desires to live in a world that doesn't include placing our neighbors in chokeholds requires a more compelling revelation. No neighbor should have to interact with the criminal legal system in order to access services for substance-use disorder, mental health support or housing. Ever.

At the ACLU of Colorado, we take educating our members about the role of law enforcement seriously as we reimagine a new reality of safety. Over the years we have risen to the legal and policy challenges to protect the rights of those subjected to violence and discrimination in our systems. As we press forward, let us now consider that when we say the word 'safety,' policing is not the answer. □



Center: Dr. Apryl Alexander, ACLU of Colorado client and leader of Black Lives Matter 5280, Summer 2020.



To watch our three-part webinar series, go to: aclu-co.org/advocacyfromhome.

THE FIGHT FOR RACIAL JUSTICE CONTINUES

Alberto Torres Wins \$285,000 Settlement After Being Brutalized by Aurora Police

By Rebecca T. Wallace, Senior Staff Attorney & Senior Policy Counsel

Four years ago, Alberto Torres was fixing a car in his garage with friends when two Aurora police officers showed up to investigate a minor noise complaint. An officer, with no warrant, illegally ordered Mr. Torres to exit the garage and threatened to take him to jail. Because Mr. Torres paused momentarily before complying with the illegal order, the officer put him in a twist lock and, within seconds, threw him to the ground. Mr. Torres let out blood-curdling screams of pain as officers repeatedly wrenched his injured arm behind his back and, while handcuffed, smashed his face into the ground leaving him bloodied and bruised. Paramedics were called to the scene and transported Mr. Torres to the hospital for treatment of the “golf ball-sized hematoma” above his eye.

The cover-up began immediately. One officer blocked Mr. Torres’s wife from filming the encounter on her phone. To justify the brutality, another officer falsely charged Mr.

Torres with resisting arrest and failure to obey a lawful order. Aurora Police left a review of the use of force to the supervising officer who participated in the brutality. So, it was no surprise that they found that the officers engaged in no wrongdoing. At trial, a jury acquitted Mr. Torres of both charges and found him guilty of only a minor noise violation.

ACLU filed suit against the Aurora Police on behalf of Mr. Torres and the cover-up continued. The officer who beat Mr. Torres, Ethan Snow, obstructed the legal process to the point that our legal team had to seek intervention by the court to force him to provide forthright, timely and complete answers.

While the size of Mr. Torres’s settlement suggests the significance of the wrongdoing in this case, it does not even begin to serve justice. To this day, Mr. Torres suffers physically and emotionally from the incident and racialized police violence in Aurora has continued unabated. Elijah McClain. David Baker. The Gilliam Family. Dr. P.J. Parmar. Teddy Pittman. We say their names. We don’t forget.

Aurora ranks eighth out of the 100 largest cities in the U.S. for police killings per capita, and the Aurora Police Department kills Black people at four times the rate of white people. Aurora Police have used pepper spray, police dogs, Tasers and other weapons and force against Black and Latino people disproportionately to white people despite data showing that people of color in Aurora are no more likely to injure police than white people during an arrest.

Aggressive, violent, racialized policing in

Aurora and other Colorado cities is causing many to rethink the role of police officers. Why are they the first responders on simple noise complaints, mental health calls, and substance abuse issues? What if Mr. Torres had been approached by a community response team and asked to simply lower his noise level? What if Elijah McClain had been approached by social workers rather than cops with weapons? Mr. Torres would not have been beaten, and Mr. McClain would still be alive and playing his violin.

Police budgets have grown exponentially even as crime has remained low. It’s time to rethink that trend. Investment in alternative community responses will save lives, decrease the racial harms of the criminal legal system, and build community strength and resilience. This is the next step in our struggle to end racialized police brutality. To learn more, we invite you to watch our webinar series on policing and divestment. □



Alberto Torres, October 2020.

CALL FOR STORIES:

We are investigating complaints that HOAs have objected when residents have displayed pride flags or Black Lives Matter yard signs. If you believe your HOA or Metro District is infringing on your right of free expression, contact us at HOAfreespeech@aclu-co.org or visit bit.ly/hoametro for more info.

LEGAL ROUNDUP

By Deanna Hirsch, Communications Officer

The pandemic propelled our legal department in several cases. In May, we filed a class action lawsuit against Governor Polis and the Department of Corrections (DOC) for an emergency order to protect medically vulnerable incarcerated people from COVID-19. Later, ACLU and DOC announced a joint resolution and filed a request for entry of a court order with provisions to keep incarcerated people safe. While that filing resolves the case against the

DOC, we filed an amended complaint against the Governor alleging that he violates the Colorado Constitution by failing to exercise his powers to safely reduce the prison population in the wake of the pandemic.

On May 11, a federal judge ruled that the U.S. Constitution requires the Weld County Sheriff to provide special protections to medically vulnerable people incarcerated in his jail. The order was issued after a hearing in our lawsuit to compel Sheriff Reams to comply with public health guidelines for all medically high-risk people.

A month later, along with Arnold & Porter, we filed a lawsuit against the City and County of Denver on behalf of Black Lives Matter (BLM) 5280 and individual plaintiffs injured

by police while protesting in late May and early June. The lawsuit challenges the use of tear gas and “less-lethal” weapons that police used against nonviolent protesters who were demonstrating over the police killings of Black people.

Finally, we sent a letter on behalf of Sol Mountain Farm to the town of South Fork’s attorney demanding they immediately rescind a new policy banning solicitation of charitable donations on town-owned property. The town adopted the policy in response to a complaint that the farm was providing customers an opportunity to donate to the BLM movement at the weekly South Fork Farmer’s Market. As a result of our letter, the “no solicitation” policy has been rescinded. □

EVEN IN A PANDEMIC, WE PERSIST

2021 Legislative Preview

By Denise Maes, Public Policy Director

The 2020 legislative session was one for the history books. Although the session began normally with many legislative initiatives in the queue, the effects of the COVID-19 pandemic disrupted many plans. With COVID-19 cases on the uptick, there is much uncertainty surrounding the 2021 session. Nevertheless, we persist.

Currently, the 2021 session is scheduled to begin the morning of January 13, and the Governor is scheduled to give his State of the State speech on January 14. Nothing else is certain. Leadership from both parties and both chambers have expressed the likelihood that the 120-day session will indeed be disrupted, and that like last session their work will not take place over 120 consecutive days.

Notwithstanding these uncertainties, your ACLU of Colorado team has prepared a robust list of legislative priorities.

As in past sessions, we will pursue policies that keep innocent Coloradans out of jail. We will champion legislation that furthers more law enforcement accountability, provides better protection for protesters, and advances rights for our immigrant families and neighbors.

We will continue championing legislation that guarantees all persons arrested have their bond hearing within 48 hours. This mandate will require that courts across the state convene on Saturdays or Sundays, like some county courts do, including Denver. Often, individuals arrested on a Friday will not appear before a judge until Monday, and sometimes Tuesday depending on the size of the docket. For individuals arrested on a warrant from a different county, some wait several days before their first appearance. This practice is ethically unacceptable and constitutionally questionable.

Additionally, we will continue to advocate for legislation that will keep the Colorado jail population low. Colorado sheriffs, judges, district attorneys, public defenders and prosecutors worked together to dramatically decrease Colorado's jail population. Since March, Colorado's jail populations fell 46%. This decrease means that around 6,000 fewer people were sleeping in jail every night, which translates to upwards of 20,000 fewer people incarcerated in Colorado jails every month. This begs the question of why so many individuals



Elisabeth Epps embraces ACLU of Colorado client Mickey Howard. Ms. Epps is the founder of Colorado Freedom Fund (CFF), the state's only non-profit bail fund. She is also ACLU of Colorado's Smart Justice Organizer. July 2018. © Denver Post, Joe Amon.

were in jail in the first place. We will support legislation that will memorialize into law the bold and lifesaving actions of the many who brought Colorado's jail population numbers to historic lows.

In the 2020 session, bold legislators brought forward bold reforms that enhanced law enforcement accountability and transparency. That movement will continue in the 2021 session. The specifics of such legislation are in the process of discussion and drafting. In addition, many legislators are interested in providing further protection to individuals in the streets protesting for a better Colorado. We are involved in those conversations, and are certain legislative initiatives will come forward.

Finally, during every session, we work toward greater protection for our immigrant community. Last session we championed legislation that mandated inspections of the Aurora immigration detention facility, which ultimately passed and brought about greater transparency. This session, we're focused on the privacy of individuals applying for a driver's license — permitted by Colorado law — from ICE inspection unless ICE has a warrant or another compelling reason to obtain such information. Privacy protection is a core ACLU issue and driver's license applicants should not expect their application to be open to unfettered government inspection.

With the virus on the ascent, it is difficult to plan and predict. Regardless, we want you to know that the ACLU policy team will continue to do its best to advance civil liberties in the Colorado legislature come January. We will continue to be bold, push the envelope, and fight the good fight. Thank you your support. □

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Oliver Fon of Casa De Paz accepts ACLU of Colorado's Ralph L. Carr Award.



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NO GIFT TOO SMALL

By Linnea Sherwood-Salkeld

We at the ACLU of Colorado are humbled by the support we've received from our community during such a difficult year and hope Linnea's story will bring you the same inspiration it brought us.

My name is Linnea, I'm 11 years old, and I am from Fort Collins, Colorado. I was feeling sad and helpless about what happened to George Floyd and Breonna Taylor, and I wanted to help in any way I could. My mom and I brainstormed about what I could do, and we came up with the idea of selling cookies and banana bread and donating the money to an organization that helps fight against racial injustice.

My mom shared that I was doing a fundraiser on Facebook and with our friends. I only thought I would raise \$50 in the beginning, but so many people bought cookies and some people, like friends and family from the East Coast, Spain, and England, just donated money so that they could help too. My sister, Freya, helped bake batches and batches of cookies and breads too, and in the end we made 35 batches of cookies and 20



Sisters Linnea and Freya Sherwood-Salkeld bake cookies and banana bread to raise money for the ACLU.

loaves of banana bread!

I had a good time doing this because I love baking and it made me feel like I was helping as much as I could, in my own way. I was also glad to be making our friends happy with cookies and making them feel helpful, too. It felt really good to donate \$1,226 to the ACLU in August and to know that they would help change the world with it. ☐

Please consider elevating your support with a gift today.

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