

ACLU Montana

WINTER 2022



IN THIS ISSUE

- A Message from our Board President
- Legislative, Legal, and Development Updates
- New Staff Members
- Reflections with Caitlin Borgmann

*Lauren Clairmont speaking at
We Are Still Here Rally*

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TABLE OF CONTENTS

A Message from our Board President 04

by Paul McKean

Legislative Update 06

by Keegan Medrano

Legal Updates 08

by Alex Rate

Development Update 12


New Staff Members 14


Reflections with Caitlin Borgmann 16

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A MESSAGE FROM OUR BOARD PRESIDENT

Dear Supporters,

The ACLU of Montana just celebrated its 50th Anniversary. During this time, we have fought countless battles, often successfully, always tirelessly, in our mission to protect civil liberties and make Montana a more just place. One thing we have learned over the years is that our staff is forever changing. This coming year we face a particularly significant change with the retirement of our Executive Director, Caitlin Borgmann. But it is not one person that makes this organization so strong; it is the collective work of all the staff, supporters, members, board, volunteers, and people like you that make it possible for the us to do the work we do day in and day out.

“One thing we have learned over the years is that our staff is forever changing.”

We are working closely with the staff, board, and community

members to choose our next executive director. We are conducting a thorough nationwide search, with the assistance of a firm that has extensive experience conducting leadership searches with a focus on promoting equity in hiring. We are committed to ensuring we select a leader who will carry forward our organizational values, including our commitment to anti-racism and anti-colonialism.

We will also support the staff as they take on what will be one of the most challenging legislative sessions we have faced in recent memory, perhaps in the history of our affiliate. As President of the Board, let me reassure you that we are prepared for this fight and are bringing to the Capitol our biggest team ever to lobby in support of the values that you and we hold dear.

Thank you to Caitlin Borgmann for her transformational leadership over nearly eight years. Under Caitlin's tenure, we established the first-ever Indigenous Justice Program in the nationwide ACLU family; won numerous legal victories; defended the civil liberties of all Montanans against sweeping attacks in the Legislature; doubled the size of the staff and built an outstanding team that has the ambition,

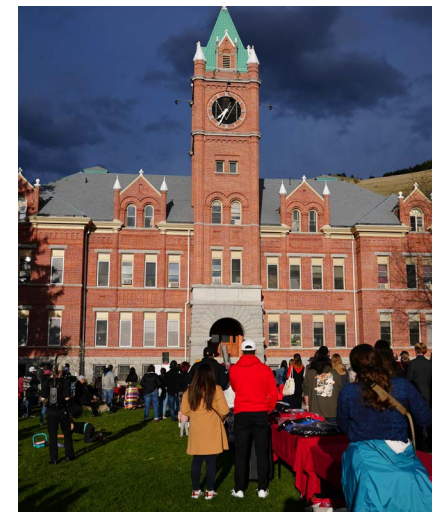


“But it is not one person that makes this organization so strong; it is the collective work of all the staff, supporters, members, board, volunteers, and people like you...”

skill set, and fortitude to take on extreme challenges. Thank you to the entire ACLU of Montana team for coming together to create a united front against those that wish to strip away our rights. Finally, thank you to supporters like you for standing with us as we continue the fight for our values, our state, and our future.

In solidarity,

Paul McKean
Board President



LEGISLATIVE UPDATE

Keegan Medrano

Policy Director

The Advocacy and Policy Department (APD) at the ACLU of Montana has had a season faced with sobering challenges as well as exciting developments. Together, we watched as the U.S. Supreme Court struck down *Roe v. Wade* bringing uncertainty and confusion to many women and people seeking access to abortion across the country. We engaged in the 2022 General Election in new and exciting ways, and we are deep into preparing and planning for the 2023 Legislative Session.

SUMMER

We were all outraged and heartbroken to see the U.S. Supreme Court end decades of bodily autonomy by overturning *Roe*. Even with an end to *Roe*, abortion remains legal in Montana thanks to *Armstrong v. State of Montana*, which held that the Montana constitutional right to privacy broadly guarantees that every Montanan has the right to make medical judgments affecting her or his bodily integrity, including the decision to end a pregnancy, free from government interference.

APD partnered with Planned Parenthood of Montana, Blue Mountain Clinic, All Families

Health Center, and other reproductive justice and abortion rights organizations to educate Montanans on their right to abortion access. Together, we hosted the “Bans Off Our Bodies” event in Billings, and joined thousands using their voices to express their outrage and frustration over the onslaught of anti-reproductive-justice legislation nationally and here in Montana.

FALL

As Summer turned to Fall, APD turned our attention to the 2022 General Election. In 2020, we took an intentional step into that election to educate voters on the importance of their vote and key issues related to the governor’s race. We continued similar work this year to educate voters while ensuring all communities had equal access to the ballot.

ACLU of Montana joined the steering committee of the NO on LR-131 campaign. The campaign brought on extraordinary staffers Hillary-Anne Crosby and Julia Maxon to talk with voters and ensure they saw how extreme and harmful this law would be for all families. Thanks to the hard work of the campaign and supporters

like you, Montana voters defeated LR-131 with a vote of 53%, stopping a government mandate that threatened to criminalize our trusted medical professionals and traumatize grieving parents.

APD also engaged in this election cycle in new and exciting ways. While we awaited a decision in *Western Native Voice v. Jacobsen* (see Legal Update), we committed to expansive efforts to secure Indigenous community members’ access to the ballot as a part of our organization’s commitment to Indigenous Justice. Too often these communities are underserved by campaigns, political parties, and political organizations. Our partners at Western Native Voice and leaders within the Indigenous community are often left to fill in the gaps these campaigns leave, and the ACLU-MT was proud to join them. ACLU-MT produced mail pieces sent to voters, newspaper ads in local and national Indian Country papers like the Great Falls Tribune, Billings Gazette, and Indian Country Today, targeted digital ads, and more to encourage people to register to vote and remind them to vote on Election Day.

UPCOMING

For the upcoming 2023 Legislative Session, the ACLU-MT has seen an onslaught of anti-transgender-rights, anti-reproductive-justice, and anti-Indigenous-rights proposed legislation. All of these bills have one thing in common

– they are trying to control our bodies: what they are, what they should be, and how they should function. ACLU of Montana remains committed to stopping these harmful bills and protecting the right to privacy and bodily autonomy.

“...joined thousands using their voices to express outrage and frustration over the onslaught of anti-reproductive-justice legislation nationally and here in Montana.”

APD is excited to announce that we have brought on new staff to help us protect your rights in the Montana Legislature. Our lobby team includes Sharen Kickingwoman, Robin Turner, Maggie Bornstein, and myself with crucial support from Paul Kim. Together, we will provide the first line of defense against these attacks on our rights. But we’ll only be able to do it with your help. Watch for calls, emails, and other communications from the ACLU-MT on how you can take action and join us in solidarity.

LEGAL UPDATES



Alex Rate
Legal Director

SETTLED: *Disability Rights Montana v. Glueckert*

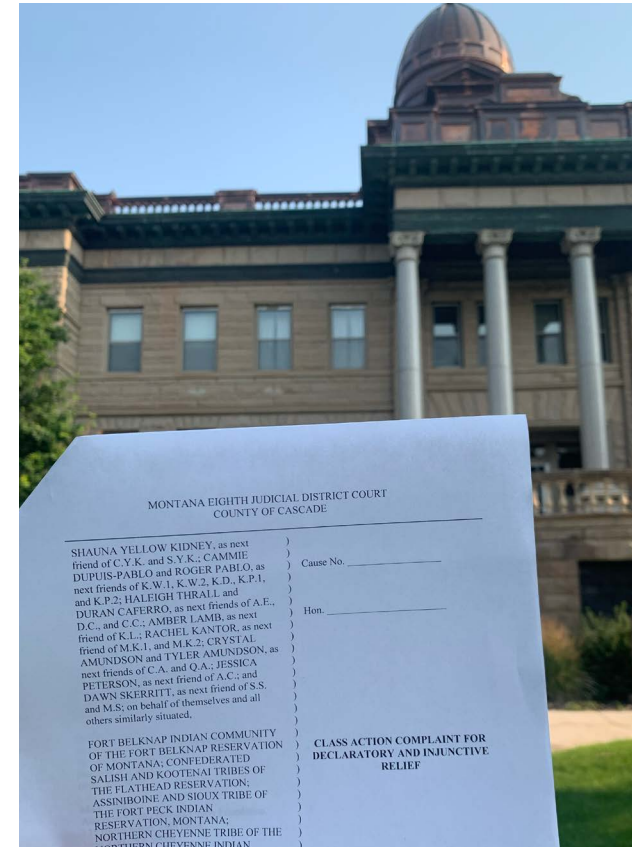
For years people with mental illness incarcerated at the Montana State Prison have been denied constitutionally adequate healthcare and warehoused in solitary confinement. ACLU-MT, in collaboration with Foley Lardner, LLP, represented Disability Rights Montana in a multi-year lawsuit seeking wholesale reform of practices at the State Prison. After prevailing at the 9th Circuit Court of Appeals, and on the eve of a trial in District Court, the parties reached a landmark settlement that limits the use of solitary confinement for mentally ill prisoners, ends the practice of punishing prisoners for manifestations of their mental health issues, and guarantees adequate mental health services.

WIN: *Maloney v. Yellowstone County*

Eleanor Maloney, a transgender attorney, was categorically denied gender-affirming healthcare under Yellowstone County's health benefits plan. ACLU-MT and our National ACLU LGBT&HIV Project sued the County for illegal discrimination. The case definitively established – for the first time in Montana – that discrimination on the basis of sex includes gender identity. By excluding gender-affirming care from its health benefits plan, Yellowstone County made the conditions of employment so intolerable that Eleanor was “constructively discharged.” As a result, Eleanor was awarded \$66,531.94 in compensation.

WIN: *Weems et al. v. State*

After the U.S. Supreme Court overturned *Roe v. Wade*, protecting access to reproductive healthcare has taken on increased urgency in Montana. Montana is uniquely positioned to not just maintain the right to access abortion care, but also to expand access. In collaboration with the Center for Reproductive Rights, the ACLU-MT filed a lawsuit challenging a law that restricts the provision of abortion care to physicians and physicians' assistants. We represented Helen Weems, a certified nurse practitioner, who is licensed and competent to provide abortion care. In a monumental opinion, a district court ruled that denying individuals the right to access abortion care from a competent “health care provider of their choice” violates our state constitutional right to privacy. The case is now on appeal to the Montana Supreme Court and was argued at the end of December.



ONGOING CASE: *Yellow Kidney et al. v. Office of Public Instruction*

Montana's Constitution requires that all public school students receive instruction about the first peoples of their state. In a novel lawsuit, ACLU-MT, the National ACLU, Native American Rights Fund, and Robbins Kaplan sued the Office of Public Instruction for its failure to adequately implement the constitutional and statutory Indian Education provisions. The lawsuit seeks to ensure that Indian Education is robustly and uniformly implemented in every school district across the State. We represent numerous individuals

and multiple tribal governments who are all committed to seeing Indian Education present in the classroom. The Office of Public Instruction filed a Motion to Dismiss the case which will be argued in Cascade County District Court in 2023.



ONGOING CASE: *Western Native Voice v. Jacobsen*

ACLU of Montana, the National ACLU, and Native American Rights Fund successfully challenged two new Montana laws that hinder Native American participation in the state's electoral process. The first, HB 176, ends election-day registration, which reservation voters have relied upon to cast votes in Montana since 2005.

The second, HB 530, blocks

organized ballot collection on rural reservations. These new laws are just the latest attempt by the Montana Legislature to disenfranchise vulnerable sections of the voting public – most particularly, Native American voters on rural reservations, who already face multiple barriers to access the ballot box. Following a two-week trial in Billings, a District Court judge issued a 200-page opinion holding that these voting restrictions violated Plaintiffs' constitutional right to vote, right to free speech, due process, and equal protection of the laws. The case is now on appeal to the Montana Supreme Court.

ONGOING CASE: *Marquez v. State*

In 2021, the Montana Legislature enacted a new law that made it virtually impossible for transgender individuals to update the sex designation on their birth certificates. It is critically important for transgender individuals to have accurate identity documents, including birth certificates. ACLU-MT, National ACLU, and Nixon Peabody LLC filed suit against the State on behalf of two transgender Montanans who are prevented from updating their birth certificates. We argue that this discriminatory law violates our clients' constitutional right to equal protection of the law, due process of law, and privacy. In April, 2022, a District Court judge enjoined the law, holding that it likely violates Plaintiffs' right to due process. Undeterred by the Court order, the State immediately responded by promulgating an even more draconian rule restricting birth certificate amendments. In September, 2022, the same District Court reaffirmed that the new rules are void based on the earlier preliminary injunction. The case is now proceeding in District Court with a trial scheduled for August, 2023.



Montana

Make a gift using your IRA to support the ACLU's work today!

Federal law allows people age 70½ or older to make direct transfers to charitable organizations from their IRA, without the withdrawal being treated as taxable income. This will count towards your Required Minimum Distribution.

Contact your IRA custodian and follow their procedures to request a "Qualified Charitable Distribution." The check must be accompanied by your name and address information in order for you to receive a written acknowledgment from us. You will need this information:

ACLU of Montana Foundation, Inc.

Tax ID# 81-0445339

Mail to: ACLU-MT

PO Box 1968, Missoula, MT 59806

Questions? Contact **William Schenck**, Development Associate, at schenckw@aclumontana.org for details.

DEVELOPMENT UPDATE

FUNDRAISING BEYOND THE DOLLARS AND CENTS

ACLU of Montana's Development team presented at the Montana Nonprofit Association's Fundraising Summit Equity and Opportunity conference in Helena this past June. The team discussed their programmatic work and Anti-Racist/Anti-Colonial approach to philanthropy following a keynote presentation by Edgar Villanueva, author of the book "Decolonizing Wealth" and member of the Lumbee Nation. The event brought together over 100 attendees who represent board members, development staff, and executive directors of Montana's non-profit sector.

Kileen Marshall, Director of Philanthropy, presented on her personal learning journey as a cis white woman who has been in the field for 14 years. Kileen discussed how our development program addresses systemic disparities within a major gifts model of fundraising: "I am grateful to come to work each day seeking to raise a bunch of money (over \$1.4M this year alone)," she said. "While finding ways to value donors at all giving levels, it is important to acknowledge that wealth accumulation in this country is intrinsically tied to white privilege, and to draw clear

boundaries between the role of donors as partners in our work, but not as decision-makers about what the work looks like."

Alyssa Kelly, Donor Engagement Manager, presented on her personal learning journey as an Indigenous woman from the Confederated Salish and Kootenai tribes and new fundraiser engaging directly with donors. Alyssa helped organize virtual Town Hall events to educate donors on programmatic work and highlight the work of partner organizations. She also discussed the significance of approaching story telling with empowerment and humanity to avoid "othering." Alyssa discussed the significance of understanding history when approaching philanthropy work: "All wealth in this country was

"...our development program addresses systemic disparities within a major gifts model of fundraising."

founded on genocide, racism, and theft of resources and labor," she

said. "It is a difficult history to reconcile but it is essential that we do so in order to create a better future."

William Schenck, Development Associate, presented on his personal learning journey transitioning from working for a grassroots nonprofit in the Midwest, to the nationally recognized ACLU. William shared how his initial reservations around making that shift faded when he saw the team's commitment to challenging the status quo within the philanthropic sector. William discussed the department's ongoing Anti-Racist/Anti-Colonial internal document, which outlines values, guides the work, and acts as a source of accountability. He also discussed an upcoming project that will introduce donors to partner organizations and highlights their work. "I hope that this project will help form and nurture relationships across the Montana non-profit ecosystem," he said.

As the team continues to shape its socially conscious approach to fundraising, we encourage others to learn more. Below are some helpful resources that continue to serve as guiding documents for the department's Anti-Racist and Anti-Colonial work and serve as an excellent source for learning:

- **Vu Le** - <https://nonprofitaf.com/>
- **Edgar Villanueva** - <https://decolonizingwealth.com/>
- **Michelle Muri** - <http://www.theethicalrainmaker.com/>



WELCOME TO NEW STAFF MEMBERS

Paul Kim
Policy Associate

Paul Kim joined the ACLU of Montana in August 2022. As policy associate, he is tasked with analyzing and tracking Montana's political landscape to advance the priorities of the ACLU of Montana. The son of two Korean immigrants, he is particularly interested in the Asian experience in the American West and the role of migrant racialization as a function of the American settler-colonial project.

Paul holds a Bachelor of Arts degree in Human Geography from University College London. During his time at university, he pursued a dissertation which explored the relationship between colonial ecologies, masculinity, and political power in Montana. While completing his undergraduate degree, Paul also worked on state and federal political campaigns in Montana including Senator Jon Tester's re-election in 2018.

In his free time, Paul enjoys backpacking, swimming in cold water, and spending time in the archives uncovering Montana's buried racial histories. As a child of diaspora, he is proud to call Missoula home.



WELCOME TO NEW STAFF MEMBERS

Maggie Bornstein
Legislative Session Lobbyist

Maggie Bornstein was raised on the Massachusetts-New Hampshire border on the ancestral homelands of the Wabanaki Confederacy. She is grateful to have lived and learned in Missoula, Montana for the past 5 years, where she earned a bachelor's degree in African-American studies, women's, gender, and sexuality studies, and sociology. As a student, Maggie worked to bring state-level representation to the political interests of students and fostered a safe and empowering environment for students with marginalized gender identities as the director of the Gender Equity Resource Center.

Upon graduating from the University of Montana, Maggie has spent time on staff at local and statewide organizations including the YWCA of Missoula, Missoula Food Bank & Community Center, and the Montana Human Rights Network.

Maggie was raised by her mother, Michelle, and shaped by her late sister, Annie. They have inspired her love of talking on the phone, second-hand clothes, and home cooking.



REFLECTIONS WITH CAITLIN BORGMANN

With a mixture of sadness and excitement, I am announcing my retirement. I have worked within the ACLU family in various capacities over a span of nearly 35 years. As I enter my eighth year at the ACLU of Montana, I am filled with gratitude for the tremendous work we have accomplished together.

During my tenure, the affiliate has grown significantly in staffing, programs, and fundraising. Our staff and board have become more diverse, and we are prioritizing anti-racism and anti-colonialism at both the board and staff levels. We established the first-ever Indigenous Justice Program in the history of the ACLU. We have fought through major challenges, including the end of our special funding through the ACLU Strategic Affiliate Initiative Program, a pandemic, the Trump administration, and the 2020 election which shifted Montana's government sharply to the right. Despite these challenges, we have won major victories in Indigenous justice, voting rights, criminal legal reform, reproductive freedom, LGBTQ2S+ equality, informational privacy, and immigrants' rights. None of these successes would have been possible without our incredible staff and board at the

ACLU of Montana, our many courageous plaintiffs, community activists, and supporters. It has been a privilege to work with you and for you.

The ACLU has been a huge part of my life, and I know I will miss it. At the same time, I believe in creating opportunities for new leadership. Personally, after some recent health scares in my family, I welcome the opportunity to spend more time with my husband, adult children, and elderly father, and to take some time to decide whether I will pursue any new professional challenges. And of course, I will always remain an enthusiastic fan of the ACLU's ongoing work.

As I plan my departure, I am confident that I am leaving the ACLU of Montana in an exceptionally strong place, setting a new executive director up for success in continuing to lead this organization to new heights.

Thank you for sticking with us through the years!

Caitlin Borgmann,
Executive Director





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Montana

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