



ACLU at the Montana Capitol

by Niki Zupanic, Public Policy Director

There are many ways to describe a Montana legislative session, but when you are defending the civil liberties of all Montanans, you can just call it 90 days of triage. From criminal justice reform to privacy rights to church-state separation, nearly all of the issues that we defend are studied and debated by legislators. Legislators will introduce more than 1,000 bills during the 2011 session, and by the beginning of January, we already had our eyes on more than 300 bill draft requests that could implicate civil liberties.

How do we prioritize the scores of bills that we are monitoring and ensure that we spend our limited time and resources on the bills that are the most important? Some decisions, such as defending against anti-choice measures and defending due process rights, are easily made. But for some other bills, we begin by asking ourselves a few simple questions: Does this bill raise an issue squarely within our mission to preserve, defend and expand constitutional liberties? How does this bill fit within our strategic plan, as adopted by our Board and ratified by our members? Will our involvement make a critical difference?

Last session we testified on 52 bills and resolutions. If the first few weeks of this session are any indication, we can expect to testify



A view of the Capitol dome looking up from the Rotunda. The ACLU is looking out for civil liberties during the 2011 Legislative Session.

on significantly more this session. Fortunately, thanks to our work in coalition with several other statewide advocacy groups, we will have lots of help on many of the issues discussed below. Consider it a snapshot of where things stand early in the session, and be sure to visit www.aclu-montana.org frequently for updates on issues, schedules of important hearings and opportunities for you to take action and make your voice heard in Helena.

Criminal Justice Reform

Our work with the Montana

Abolition Coalition to repeal the death penalty continues this session with Sen. David Wanzenried's bill to repeal the death penalty and replace it with life without possibility of parole. Please see page 6 for exciting news about the latest developments.

ACLU of Montana staff has been working diligently on tracking legislation related to the Public Defender system, including budget talks and proposals to reorganize the agency. A proposal to alleviate some conflict-of-interest issues within the agency has already been approved by its first legislative committee. Of course, a key to a well-functioning indigent defense system is adequate funding. We have already testified before this session's budget committees on the historic underfunding of the public defender system and the need to provide funding that allows for manageable caseloads, well-qualified attorneys and access to experts and investigators.

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Highlights in Our History

Recently I realized that about half of ACLU of Montana’s 1,800 household members joined in the last 10 years. While some member have been with us for decades, many, if not most of our current members may only know us to be a well-staffed nonprofit organization with offices in Helena and Missoula.

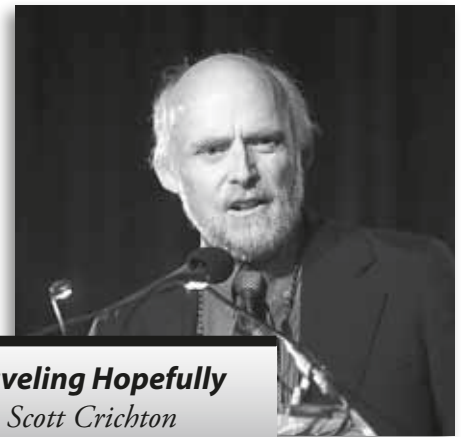
That has not long been the case. As you know, we just marked ACLU’s 90th anniversary. Montana had a connection to the national organization from the start. Jeannette Rankin was at the founding meeting and served as the first vice president. The early ACLU was organized by Crystal Eastman and Roger Baldwin. The mission really was much the same as it is today. The primary concern was providing legal representation to individuals whose constitutional rights had been violated and who would most likely not get their day in court without an independent advocate.

Montana had ACLU activists in the 1930s and 1940s, most notably Rev. Daniel McCorkle who came to Montana from Union Theological Seminary. McCorkle, an ACLU “field agent,” stood up for miners in Carbon County and stood against the Loyalty League’s attempted demonization of Americans of German descent during WWII. He retired north of Great Falls and in his later years became an advocate for adequate mental health treatment at Warm Springs and in communities across the state.

We have to fast forward to 1972 before we first find a draft of a constitution for a Montana ACLU affiliate. Because the national organization was based in New York City, groups of members in various communities banded together to create their own local chapters.

By 1975, Helena members had organized the Last Chance Chapter and Great Falls had the Jeannette Rankin Chapter. I’ve also heard from old timers that Missoulians, on occasion, reached across state borders to work with ACLU folks in Spokane. Chapters were an entity unto themselves, each with their own boards of directors, officers and legal directors.

Minutes from 1979, when Ira Glasser became the national ACLU’s executive director, indicate Jesse Farris was president and that Jesse and Jack Stemfling essentially served as unpaid staff on all things ACLU in



Traveling Hopefully
Scott Crichton
Executive Director

Montana – like getting judges to deal with bail reduction. Jim Goetz, who is now lead counsel in our partnership recognition litigation, was then Montana’s representative to the National ACLU. Among the issues they were dealing with at the time were the death penalty, contraception, abortion and parental notification. They were strikingly lean. National ACLU provided \$200 a month to the affiliate. They had a bank balance of \$2,443. While the issues remain the same, at least the financial picture has improved.

In 1981, the affiliate took the big step and hired staff. Diane Benjamin became executive director. She hired other part-time employees to work on administration, communication, and intake. Diane’s husband, Jeff Renz, served as the volunteer legal director. In fact, a deal was cut between Renz and then ACLU’s Western Regional Director Dorothy Davidson, based out of Denver. Renz needed support from Davidson and regional attorney Stephen Pevar to challenge conditions of confinement for inmates in Yellowstone County. In exchange, the Montana affiliate would take root and open an office in Billings.

Back then, there was virtually no travel budget. Despite the scarcity of resources, significant challenges were undertaken and won in *Ridgeway v. High School Athletic Association*, the Title IX litigation for girls’ high school athletics, and *Windy Boy v. Big Horn County*, our first voting rights case.

After seven years, Benjamin stepped down. In 1988, I was hired as the first full-time staff person. It was a challenge to get the various chapters to relinquish their fierce independence – they’d each dealt with National ACLU autonomously up to then

Traveling Hopefully, cont. on page 11

Starting the Year at Full Speed

Well, it's looking like this cold snowy winter may last till June. Looking for a way to warm up? Look no further – come to the ACLU of Montana's annual meeting in Helena! You'll get fired up about civil liberties and will positively glow after meeting with your fellow ACLUers.

The ACLU Board meets quarterly and our meetings move around the state. At each meeting we have receptions to meet with local members. Once a year, we hold an annual meeting to engage with our members more "officially." Every two years, this annual meeting is held in Helena to coincide with the legislative season, and that is, of course, this year. Join us Saturday, March 5th at the Best Western Great Northern Town Center. Our keynote speaker is Laura W. Murphy, Director of the ACLU Washington Legislative Office (see more information about Laura on page 9). You will also have the opportunity to talk with other ACLU members, the ACLU staff, and the volunteers on your Board of Directors.

We'd love for you to get more involved with ACLU and our issues, especially during this legislative session. Please check our website at www.aclumontana.org regularly for updates on legislative activity and bills of interest. You can also sign up for e-alerts, and learn how to reach your legislators. Get in touch with them regularly during the session to let them know how you feel about issues, bills, or their activities.

What is ACLU hoping to accomplish this session? We have been working for 10 years to abolish the death penalty in Montana. With our partners in the Montana Abolition Coalition – the Montana Association of Churches, the Montana Catholic Conference, and the

Montana Human Rights Network – we think that this is the year it will get done. A woman's right to choose always needs to be defended; a number of bills have already been introduced to infringe upon this right. ACLU would like to see death with dignity codified in Montana but there is a bill on the floor to ban physician-aid-in-dying. Anti-immigration bills are also being requested – one would deny birth certificates to children whose parents have no proof of citizenship. And the list goes on. ACLU will work tirelessly to counter these efforts. Again, your help in contacting legislators is appreciated.

Finally, our March meeting coincides with a change in Board after the winter elections. I'd like to thank our Board 'retirees' – Eduardo Capulong, John Fletcher, and Steve Guettermann – for their service. They have worked hard on behalf of civil liberties in Montana. It is good to know that though they are leaving the Board, they remain members of our ACLU family. We are fortunate to have three newly appointed volunteers join us. I'd like to take this opportunity to welcome Margaret Abbott, Jamee Greer, and John Masterson to the Board.



President's Reflections

Sheila Bonnard

Important Dates in Civil Liberties History

February

Black History Month

(Changed from Black History Week to the full month in 1976. Black History week was first observed in 1926.)

Feb. 3, 1870: Ratification of the 15th Amendment, ensuring the right of every citizen—regardless of race—to vote

February Birthdays

Feb. 4, 1913: Rosa Parks
Feb. 12, 1809: Charles Darwin
Feb. 12, 1809: Abraham Lincoln
Feb. 22, 1732: George Washington
Feb. 15, 1820: Susan B. Anthony

March

1st Week: Police Accountability Week

Observed to mark the March 3, 1991, beating of Rodney King by four Los Angeles police officers.

March 1: International Death Penalty Abolition Day

Observed to mark the day in 1847 when Michigan became the first English-speaking territory in the world to abolish the death penalty

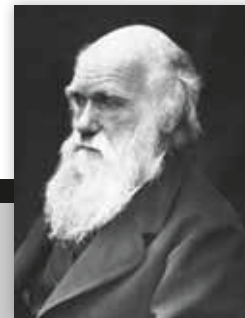
March 8: International Women's Day

March 10: National Day of Appreciation for Abortion Providers

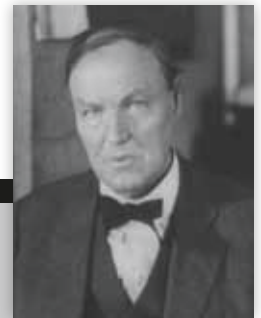
Observed to mark the anniversary of the 1993 assassination of abortion provider Dr. David Gunn in Pensacola, Florida



Susan B. Anthony



Charles Darwin



Clarence Darrow

April

April 4, 1968: Assassination of Martin Luther King, Jr.

April 11, 1968: Civil Rights Act Signed into law by LBJ

April 29, 2003: Holocaust Remembrance Day

April Birthdays

April 5, 1856: Booker T. Washington
April 13, 1743: Thomas Jefferson
April 18, 1857: Clarence Darrow



Martin Luther King, Jr.

A Full-Court Press by Amy Cannata, Communications Director

Fighting for domestic partnerships and equal access to the ballot and challenging lethal injection

The ACLU of Montana’s legal team and our cooperating attorneys have been very active in the courts in recent months. Our active case list is long, but three in particular have seen significant developments – our cases seeking domestic partnerships for same-sex couples, fighting for independent candidates’ equal access to the ballot, and challenging lethal injection.

Donaldson and Guggenheim v. State of Montana

In late January we appeared in District Court Judge Jeffrey Sherlock’s court for a hearing on whether this lawsuit seeking same-sex domestic partnerships will go to trial.

Montana’s Constitution guarantees the rights of privacy, dignity, pursuit of life’s necessities, equal protection, and due process. The goal of this lawsuit is to see that same-sex couples are able to protect their families with the same kind of legal protections that opposite-sex couples are offered through marriage.

Six couples are plaintiffs in the lawsuit, and in addition to ACLU of Montana Legal Director Betsy Griffing, cooperating attorneys James Goetz and Ben Alke of Goetz, Gallik & Baldwin P.C. in Bozeman, Elizabeth Gill with national ACLU Lesbian, Gay, Bisexual and Transgender Project and Ruth Boronstein and Neil Perry of Morrison & Foerster LLP in San Francisco are working on the case.

Montana law automatically grants married couples safeguards during times of greatest need. Yet, under

Montana law, it is possible for same-sex couples to be barred from visiting their partners in the hospital and to be left out of conversations about emergency medical care. Montana inheritance laws refuse to recognize same-sex couples, and can leave surviving partners with nothing if their partners die without valid wills.

This lawsuit seeks to remedy that unfairness.

Kelly v. McCulloch

We scored a major victory in late 2010 in this Montana voting rights case brought by the ACLU of Montana and the National ACLU Voting Rights Project.

The U.S. Court of Appeals for the Ninth Circuit ruled that this case seeking to promote political dialogue and protect the rights of all independent candidates must go back to the trial court. The decision reversed the U.S. District Court’s denial of the claims of would-be candidate Steve Kelly of Gallatin County, who sought to run in 2008 as an independent candidate for the U.S. Senate.

The District Court decision said that Kelly did not have standing to bring the case, but the Ninth Circuit ruled that Kelly and fellow plaintiff, Clarice Dreyer, both have standing as registered voters.

Dreyer is a Gallatin County resident who wanted to vote for Kelly but was unable to because of his inability to qualify for the ballot.

According to the Ninth Circuit decision, Kelly’s and Dreyer’s “basic constitutional rights as voters are implicated, and they therefore have standing to challenge Montana’s ballot access requirements.”

Montana’s requirements for independent candidates are the toughest in the nation. To appear on the 2008 ballot, Kelly would have had to file for office in early March – more than 200 days before the election – submit more than 10,000 signatures, and pay a \$1,693 filing fee.

Barriers to ballot access for independent candidates hurt not only the candidates themselves, but the electorate as a whole by limiting political dialogue. The U.S. Supreme Court has declared that the “right to vote is ‘heavily burdened’ if that vote must be cast only for major-party candidates at a time when other parties or

Why I Support the ACLU



Sometimes the ACLU is referred to as the largest public interest law firm in the country. ACLU lawyers collaborate with volunteer cooperating attorneys to defend and preserve our Constitutional rights every day. They also work to extend rights to segments of our population that have traditionally been denied their

rights – such as prisoners. I cannot see where our democracy would be without the presence of the ACLU. If the rights of society’s most vulnerable members are denied, everybody’s rights are imperiled. This is why I proudly support the ACLU.

— *Honorable Justice William E. Hunt, Sr., retired.*

candidates are ‘clamoring for a place on the ballot.’”

Montana’s signature gathering requirement is the most stringent in the country, its filing fee is tied with five other states as the third highest in the nation, and its deadline for filing is the third earliest in the country. No other state ranks in the top 15 for all three measures. The last time a Montana independent candidate successfully qualified to run for the U.S. Senate was in 1936.

Smith v. Ferriter

The Montana Supreme Court on Dec. 14, 2010 upheld a stay of execution issued in response to our lawsuit challenging lethal injection as cruel and unusual punishment.

The Court upheld the stay on after Judge John Larson set a Jan. 31, 2011 execution date for Ron Smith. Larson’s action was taken just two days after Judge Jeffrey Sherlock ordered a stay of execution on Nov. 1, 2010 in response to our suit, *Smith v. Ferriter*, filed on behalf of Smith in 2008.

Attorneys for both Smith and the State of Montana presented the motion for preliminary injunction to Sherlock, seeking to prevent Smith’s execution until the civil case on lethal injection is completed.

In its decision, the Montana Supreme Court noted that Judge Larson set an execution date knowing that Judge Sherlock had already enjoined the Department of Corrections from executing Smith.

“Judge Sherlock had been exercising jurisdiction over the civil case for over two years before entertaining the



Gary Stallings and Rick Wagner of Butte are one of six couples suing the state for domestic partnership recognition.

Motion for Preliminary Injunction,” the Supreme Court noted. “There is no question that he had authority to enter a preliminary injunction in that matter ... to enjoin commission of an act that would produce irreparable harm to the applicant, Mr. Smith.”

Ron Waterman, Julie Johnson and Greg Jackson are cooperating attorneys on this lawsuit.

More information about all these cases is available on our website, www.aclumontana.org.

Stop solitary confinement by Jennifer Giuttari, Staff Attorney

Solitary confinement is one of the cruelest punishments a prisoner can endure. While it may not leave physical scars, the emotional damage can be lasting.

Last November I attended a two-day conference in Washington, D.C., the focus of which was to create a plan to build a national campaign to end long-term isolated confinement. There were a wide-range of participants in attendance from both the ACLU community and the national prisoners’ rights community.

The conference was an invaluable opportunity to learn from others who have successfully challenged, are in the process of challenging, or are considering challenging isolated confinement in their home state. Ideas were exchanged, strategies were hatched, and collective wisdom was shared in order to begin to create a unified, national plan to stop solitary.

Prisoners in solitary confinement experience sensory deprivation that is excruciating. They rarely speak to anyone – even guards. They have little or no access to the outdoors or sunlight. Some lose

track of the time of day. It is a mentally and emotionally painful situation, and some prisoners are forced to endure it for years on end.

One key benefit of the solitary confinement conference was the reinforcement that the ACLU of Montana is not alone in its activism on this issue. Despite being the only dedicated prisoners’ rights organization in Montana, it was heartening to learn that there are many others – attorneys, public policy advocates, and educators – doing this work across the nation.

The ACLU of Montana is currently litigating the use of solitary confinement on a mentally ill teenager at Montana State Prison as part of our Montana Prison Project.

Raistlen Katka was first thrown into the Montana State Prison’s solitary confinement area (known as the Special Housing Unit) at the age of 16. He repeatedly tried to kill himself while incarcerated there.

For more information about *Katka v. State of Montana*, please visit www.aclumontana.org.

Let's Abolish the Montana Death Penalty this Year



Denver Henderson
*ACLU of Montana
 Montana Abolition
 Coalition Coordinator*

The 2011 Montana legislative session has begun, and the abolition bill is already making waves. Over the next few months state lawmakers will debate and decide on literally thousands of bills. We've been preparing for this moment since June, and our hard work has laid a solid foundation for a successful session in which we hope the death penalty will be abolished in Montana.

Speaker tours – We've brought in guest speakers of all stripes and hosted speaking events in dozens of communities. From death row exonorees and prison wardens to family members of murder victims and death row inmates, they've shared their life-changing stories with hundreds of Montanans.

Sign on letters – We've organized supporters amongst faith leaders, law enforcement and murder victim family members.

We are mobilizing these key supporters to share their voices and stories with Montana legislators.

Chapters – We have well-established activist chapters in Missoula, Great Falls and Billings. We also have new start-up chapters in Superior, Kalispell, and Hamilton. These volunteers provide a local voice for abolition and are the backbone of our movement.

Meetings with legislators –

Beginning early in the 2010 election cycle we started meeting with candidates and now-legislators. Thanks to those early organizing efforts we have allies on both sides of the aisle, reflecting the bipartisan nature of the abolition movement.

Political allies – We now have some of the most experienced people in politics representing us in the halls of Helena.

But all of our efforts are predicated on the assumption that legislators hear from their constituents. Take the first step, and sign our online petition today. Simply go to www.mtabolitionco.org/petition and add your name to hundreds of Montanans' across the state who support ending the death penalty.



Don't wait until it is too late to make your voice be heard.



90 Years Strong

ACLU 90th Anniversary Exhibit Visits Montana in March

It all began with a small group of idealists who believed that the liberties guaranteed by the Bill of Rights must be protected. Ninety years later the ACLU has touched the lives of each American.

We've fought for the right to free speech and press, separation of church and state, privacy, due process, protection from arbitrary government action and racial justice.

Today the ACLU has offices in every state and Washington, D.C. and Puerto Rico and more than 500,000 members.

A traveling exhibit on the highlights of the ACLU's 90-year history is coming to Montana in March. Panels cover defending liberty in times of national crisis, speaking up for freedom of expression, racial justice, promoting women's equality, criminal justice, the right to vote, religious freedom, ensuring fairness for immigrants, dismantling enclaves of oppression, LGBT issues and safeguarding reproductive freedom.

Commuters and shoppers got a chance to learn about civil rights history when the ACLU's 90th Anniversary Exhibit was on display in Washington, D.C.'s Union Station.

“Fair is Fair” for All Montanans

Working for Same-Sex Couple Relationship Recognition

At a time when many of us must focus on defending against attacks on victories already won, “Fair is Fair” gives us a refreshing chance to do something positive to expand liberty right now.

Supporting Fair is Fair – a campaign promoting the civil liberties of Montana’s gay, lesbian, bisexual and transgender citizens – can be as quick and easy as signing the Fair is Fair petition on the ACLU of Montana website.

It states:

“The State of Montana should ensure that all people, regardless of sexual orientation, gender identity, or gender expression, are protected from discrimination and that committed couples have full legal protections for their families.”

One important goal of Fair is Fair is to end the denial of basic legal protections and obligations to committed same-sex couples. While participating attorneys and ACLU lawyers continue to litigate *Donaldson and Guggenheim v. State of Montana*, ACLU of Montana staff and members are initiating a campaign to educate the public about the importance of relationship recognition (sometimes called “domestic partnerships” or “civil unions”).

A positive outcome in *Donaldson* would be a great step forward for Montana families, as it would provide same-sex couples with the ability to care for their families with the same legal protections provided different-sex couples through marriage. But a legal victory alone is not enough.

You’ll have two chances to view the exhibit in Helena. The first is at our annual meeting on Saturday, March 5, at the Best Western Great Northern Hotel (register at www.aclumontana.org). The second is on Monday, March 7 when the exhibit will be on display in the Montana State Capitol Rotunda. A short presentation followed by lunch will begin at noon, but you can come see the exhibit anytime from 9 a.m.-5 p.m.

Please come see what your dedication to the ACLU over the years has meant to our country.



Denver is one of many stops the exhibit has made on its cross-country tour.

We must provide more Montanans with the opportunity to understand why relationship recognition is so essential to family security.

The plaintiffs in *Donaldson* have gone public with their own moving stories about why relationship recognition is so important to their families’ security. You can read their biographies and see their videos on our website.

But these couples are only the tip of the iceberg. U.S. Census numbers indicate there may be more than 1,600 same-sex couples in Montana. Like married couples, committed same-sex couples share responsibility for running their households, supporting their families, and caring for children and grandchildren. It is only fair that they should be able to protect their families in times of crisis. But without legal recognition of their relationships, these couples can face significant barriers to their families’ security and stability during the times of greatest need – for example, they can be barred from visiting their partners in the hospital, inheriting property in the absence of a will, or even making funeral arrangements.



Ninia Baehr
ACLU of Montana
LGBT Coordinator

Get the Word Out

To get the word out to fair-minded Montanans about the real-life reasons committed couples need the ability to protect their families, advocates of fairness are reaching out in lots of ways:

- **Clergy** are making public statements in support of fairness and encouraging their congregations to learn more.
- **ACLU Members** are hosting house parties to talk about relationship recognition.
- **Opinion leaders** in education, business and the professions are scheduling presentations on this issue at meetings of colleagues and associates.
- **Individuals** are pledging to join the Tell 3 campaign to tell at least three other people why they, or their friends or family members, need legal recognition of their relationships.

If you want to join this public education campaign by hosting a house party, arranging an event at your church or business, pledging to “Tell 3,” or engaging in some other type of outreach, please e-mail niniab@aclumontana.org. And please don’t forget to sign the Fair is Fair petition!

ACLU Washington, D.C. Legislative Director Headlines Annual Meeting

Laura W. Murphy Speaking at March 5 Event in Helena

The need for people on Capitol Hill who respect American civil liberties and stand up for justice for all is great, and the ACLU is fortunate to have Laura W. Murphy leading its work on national issues. The ACLU of Montana is excited that Murphy will headline our March 5 annual meeting at the Best Western Great Northern Town Center in Helena.

In addition, ACLU of Montana staff will update members on our latest litigation, the status of civil liberties in the 2011 Montana Legislature and our efforts to protect the Bill of Rights across Montana. We are also bringing back our popular roundtables to hear what you think about the issues of the day. And the ACLU's traveling 90th Anniversary Exhibit will be coming to town, as well. Laura Murphy's presentation is not to be missed by those who care about how Congress and President Obama are handling civil liberties issues.

Murphy returned last year to the ACLU Washington Legislative Office (WLO) to serve as its Director (a position she previously held from 1993-2005). Since returning, Murphy has immersed herself in national security, criminal justice, human rights, privacy, civil rights, and First Amendment issues.

Murphy played a leadership role in the passage of the *Fair Sentencing Act of 2010*, which President Obama signed on August 3, 2010, a law that reduced the sentencing disparity between crack and powder cocaine, and that begins to address some of the racial disparities in the criminal

justice system. She has met with leaders in the U.S. Congress and the Obama Administration to advance the ACLU's public policy priorities on military tribunals, the *Paycheck Fairness Act*, the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and reproductive and civil rights among other issues.

Murphy is well known for her legislative advocacy on human rights and civil liberties. Both major newspapers on Capitol Hill—*Roll Call* and *The Hill*—selected Murphy as one of the 50 most influential lobbyists and one of 17 top nonprofit lobbyists in 1997 and 2003, respectively. In 1997, and again in 2003, the Congressional Black Caucus honored her for her significant contributions to legislation that advances civil rights and civil liberties. She has been given awards for her work with Congress and the White House by the ACLU affiliates in Massachusetts, Mississippi and Maryland.

She has testified more than a dozen times before Congress and is an experienced national spokesperson. She has been a frequent guest on PBS Newshour with Jim Lehrer, NBC Nightly News, The Today Show, ABC World News, CNN—including Lou Dobbs and Larry King Live, Fox News, and National Public Radio.

Register for the annual meeting online at www.aclumontana.org.



Rankin Awards Celebrate Montana Heroes

Thanks to all who turned out in Missoula on December 4, 2010 to honor Missoula City Council Members Dave Strohmaier and Stacy Rye and the National Coalition Building Institute of Missoula for their work promoting civil liberties in Montana.

Stacy and Dave were presented with the ACLU of Montana's Jeannette Rankin Award for their inspiring dedication to upholding civil liberties in Missoula by co-sponsoring the city's nondiscrimination ordinance and building a more just community for all.

The NCBI Missoula won its Jeannette Rankin Award for its commitment to promoting respect and equality for gay, lesbian, bi-sexual and transgender students, and for building a culture of nonviolence across Montana.

In addition, middle school students in Missoula's RESPECT Club were given the Vern Klingman Volunteerism Award for their initiative in creating the city's first Diversity Day celebration.

Stacy Rye and Dave Strohmaier



Heidi Wallace, NCBI Missoula's director of youth programs, with two members of the RESPECT Club

Montana Legislature, continued from page 1



ACLU of Montana Public Policy Director Niki Zupanic testifies in front of the Montana House of Representatives Judiciary Committee against branding DUI offenders on their drivers' licenses. Doing so would stigmatize them in their communities every time they were asked to produce their drivers' licenses as identification, and would not serve to help them be productive in the community.

Track our work this session

Click on the link to the Legislature section on www.aclumontana.org, where we post action alerts on crucial issues, a schedule of important hearings, an up-to-date watch list on the status of bills we are tracking and a weekly update about the civil liberties issues that we promote and defend.

Privacy Rights

More than a dozen anti-choice bills have been requested, including proposals to amend the Montana Constitution to prohibit abortion and create law to revive the state's invalid parental notification

law, to single out reproductive health clinics for additional regulations, and to create a new crime for causing the death of a fetus. While we are confident that the constitutional amendment will not have enough votes to pass, legislators may draft some of these other proposals as statutory initiatives, which require only a simple majority and cannot be vetoed by the Governor. For example, a parental notification proposal has already been drafted as a referendum. The ACLU of Montana tackles each of these anti-choice bills by creating a strong, clear legislative record that can be used in potential future litigation, advocating for a Governor's

veto where possible, and educating all Montanans about the dangers of eroding our privacy and bodily autonomy rights.

Montanans' right to die with dignity, a topic that legislators declined to take up last session, is back in play this year. We support a proposal to create an Oregon-like statutory framework for patients to have access to physician-aid-in-dying. On the other end of the spectrum, legislators will consider a proposal to completely ban the practice. Our constitutional rights to privacy and human dignity support patients' right to control their own medical decisions and their own bodies. Death is an incredibly personal experience. Each of us deserves to die in the manner of our choosing without interference. Physician-aid-in-dying allows patients to choose to die on their own terms and without prolonged pain.

The Attorney General is supporting a bill to create a prescription drug monitoring database. These types of databases track the prescription drugs dispensed to patients and allow medical providers and pharmacists to access the dispensing history of any person in the database. While we are pleased that this bill includes some privacy safeguards, such as limiting law enforcement access and imposing sanctions for misuse of the database, we are very concerned about the state warehousing the personal, private medical information of Montanans. We are working with several ally organizations to educate legislators about the risk for abuse that comes with such a database, and to ensure that stringent standards and privacy safeguards are included.

Church and State

A handful of bills to provide for vouchers, scholarships or tuition tax credits for private schools have been requested. We oppose attempts to divert tax dollars to sectarian schools and will be joining with public school advocates to ensure that pub-

lic education dollars are not used for religious purposes.

Racial Justice

Despite the fact that Montana has a very small immigrant population, with fewer than 3,000 undocumented workers believed to be living in our state, the Montana Legislature is once again introducing a record number of immigration-related bills. A few proposals include prohibiting workers compensation payments to undocumented workers, prohibiting the state from issuing birth certificates to children of parents who are unable to prove their citizenship, and requiring driver's license exams to be given in English only. Upholding the rights of immigrants is important to us all. When the government has the power to deny legal rights and due process to one vulnerable group, everyone's rights are at risk. We oppose legislation that singles out this vulnerable population for unequal treatment, promotes racial profiling, and diverts state and local resources towards enforcing complex federal immigration laws.

Voting Rights

The Secretary of State is supporting a bill to enact a mandatory vote-by-mail system. We opposed similar proposals from last session based on our concerns that mandatory vote-by-mail will limit places where voters can register to vote and return a ballot on Election Day. In particular, voters with disabilities should have access to voting machines that accommodate their needs and allow them to cast a secret ballot privately. And voters who move frequently may have trouble receiving their ballot in time to return it by mail. Some of these concerns have been addressed in the Secretary of State's bill, with provisions for accessible voting machines and a minimum number of centrally located ballot drop-off locations. That said, we are still paying particular attention to how this proposal may impact rural and tribal voters.

In Memoriam

The ACLU of Montana recently lost three strong First Amendment advocates and ACLU supporters.

In November, Charlie Tiernan passed away. Besides being a dear friend, he was an avid contributor to newspaper opinion pages, always standing up for civil rights.

In December, Bob McGiffert, long-time journalism professor at the University of Montana School of Journalism passed away. Bob always made certain his students committed to memory the First Amendment, and understood its importance.

In January, Frank Davis, a long-time ACLU member who served as Fifth Judicial District Judge from 1982 to 2000, passed away at age 89.

These three good men will be missed.



ACLU Friend

Golding Honored

Congratulations to Barrett Golding for being named a USA Fellow.

The honor was bestowed in December on 50 American artists.

Golding is well-known in Montana for his work on public radio, and is the writer and producer behind the ACLU of Montana's "Your Constitutional Rights" series of short audio descriptions of major cases in civil rights history.

You can hear "Your Constitutional Rights" on our website. Access it under the "Public Education" tab, and get ready for an entertaining and educational ride.



Traveling Hopefully continued from page 2

and had little interaction among the chapters themselves. I set about building a working board that was more representative of the state, trying to see that each major population base had at least two representatives at the table. We initiated a series of day-long "Jefferson Meetings" to celebrate the bicentennial of the Bill of Rights in Miles City, Lewistown, Great Falls and Helena, bringing together diverse viewpoints for civic discourse on major constitutional issues of the day. We engaged in litigation in *Many Horses v Racicot* over conditions of confinement for women prisoners incarcerated on the campus of the Montana State Hospital in Warm Springs; followed by *Langford v. Department of Corrections* in the aftermath of the 1991 riot in Deer Lodge.

Then, thanks to a combination of factors, including the emergence of a generous donor, we became the first small ACLU affiliate to hire a staff attorney. In 1997, we hired Beth Brenneman straight out of law school, and for seven years she labored for us mightily doing a great job, essentially creating our own one-person law firm. Beth's tenacity helped us in *Old Person v. Cooney*, a statewide voting rights challenge creating minority majority senate and house districts; and *White v. Martz* - our litigation that led to the

creation of a statewide public defender system.

A few days prior to 9/11, Anthony Romero took over the reins of the national organization. In February 2002, Romero paid a visit to Montana for our annual meeting in Billings, demonstrating his organizational commitment to supporting small affiliates. Romero clearly understood the importance of an ACLU presence in every state legislature, working to educate and motivate senators and congressmen everywhere to defend the Bill of Rights.

That encapsulates some of the early highlights of affiliate history. In a subsequent newsletter I will pick up where we now leave off.

And learn more about the history of the ACLU at our annual meeting on March 5 in Helena or on March 7 at the Montana State Capitol. We'll be displaying the National ACLU's 90th Anniversary as well as a small exhibit on our own affiliate's history.



The ACLU of Montana builds on Montana Congresswoman Jeannette Rankin's commitment to justice and equality. Rankin, whose statue here graces the Montana Capitol, was the first woman to serve in Congress and the first vice president of the National ACLU.



ACLU

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Spring 2011

Save the Date!

February 7– ACLU of Montana Lobby Day at the Montana Capitol

Take an active role in your state government by speaking to your legislators about civil liberties. We'll brief you on the status of bills on our watch list, have lunch, and visit lawmakers.

March 5–ACLU of Montana Annual Meeting at the Best Western Great Northern Town Center, Helena

Come hear ACLU Washington Legislative Office Director Laura W. Murphy, find out about the work going on in Montana, meet with fellow civil libertarians and check out the ACLU 90th Anniversary exhibit. Register online at www.aclumontana.org

March 7— ACLU 90th Anniversary Exhibit at the Capitol at the Capitol Rotunda, 9am to 5pm, with a short presentation and lunch at noon

See how 90 years of the ACLU has made all the difference.

**More information about all these events at
www.aclumontana.org**

