



## Victory for Missoula LGBT Community

by Niki Zupanic, Public Policy Director

Missoula made history in April when it became the first city in Montana to adopt a lesbian, gay, bisexual and transgender-inclusive nondiscrimination ordinance. The new law, which went into effect on May 13, prohibits discrimination on the basis of sexual orientation or gender identity in the areas of employment, housing, and public accommodations. By a vote of 10-2, the Missoula City Council joined more than 120 other cities and counties across the country that have adopted similar ordinances, including Milwaukee, Cleveland, and Salt Lake City.

The ACLU of Montana worked in close collaboration with the Montana Human Rights Network, the organization that led the campaign to pass the ordinance. ACLU of Montana staff drafted the ordinance and its amendments, testified in support at every hearing, and provided legal research and expertise. Council members Stacy Rye and Dave Strohmaier co-sponsored the measure.

The successful vote followed the city council's longest public hearing in decades, with more than 130 residents testifying over a five-hour period and nearly two hours of council discussion. Residents who testified in support outnumbered opponents almost two-to-one. Business owners,



Supporters of Missoula's nondiscrimination ordinance rally before its passage.

property managers, employers, pastors, parents and other city residents came before the city council in strong support of the ordinance. Members of Missoula's LGBT community — including the daughter of one of the opposition leaders — offered moving personal stories of discrimination, fear and unequal treatment.

"Your blanket judgments and irrational conclusions are ignorant, hurtful, and you need to realize this crusade you are on is wrong and it affects me personally," said Taryn

Nash, referring to her father, who led the testimony in opposition to the ordinance.

Army veteran Chris Lockridge shared with the council an exchange he had with his employer shortly after his partner's mother died. "I was talking to my boss about getting time away from work and she asked me, 'Why?' I lied. I was afraid."

Peter Shober, a pastor at University Congregational Church, spoke of his congregation's decision more than 17 years ago to become an open and affirming church. "We needed to do it because we understood then and we understand now that love is always going to be more powerful than fear and we believe in that," he said in support of the ordinance.

As public testimony continued late into the night, resident Spider McKnight stated, "I think a lot of us here feel tired in a different way.

*Missoula Makes History, cont. on page 11*

### ISSUE HIGHLIGHTS

|  |  |
|--|--|
| <i>Executive Director Reflections</i> ..... 2                                  | <i>Abolition Coalition</i> ..... 6                             |
| <i>New ACLU Montana Board President &amp; Annual Meeting Energizes</i> ..... 3 | <i>End of Life Conference Spurs Profound Discourse</i> ..... 8 |
| <i>Legal Notes</i> ..... 4   | <i>Polson Reception</i> ..... 10                               |
| <i>Fighting for Intellectual Freedom</i> ..... 5                               | <i>Coming Events</i> ..... 12                                  |

**Board of Directors & Staff**

**Officers:**

- Sheila Bonnard**  
President, *Bozeman*
- Nancy Nicholson**  
Vice President, *Helena*
- Joe Howell**  
Treasurer, *Billings*
- Bill Strizich**  
Secretary, *Great Falls*
- Brigitte Tuller**  
National Board Rep., *Three Forks*

**Board Members:**

- Ninia Baehr**, *Manhattan*
- Tom Biglen**, *Big Timber*
- Eduardo Capulong**, *Missoula*
- John Fletcher**, *Missoula*
- Steve Guettermann**, *Bozeman*
- Frank Jones**, *Big Arm*
- Connie O'Connor**, *Clancy*
- Charleena Penama**, *Missoula*
- Amy Sings In The Timber**, *Missoula*
- Dennis M. Taylor**, *Helena*
- Tom Welsch**, *Butte*

**Staff:**

- Scott Crichton**, *Executive Director*
- Claudia Montagne**, *Development Dir.*
- Betsy Griffing**, *Legal Director*
- Jen Giuttari**, *Staff Attorney*
- Niki Zupanic**, *Public Policy Dir.*
- Amy Cannata**, *Communications Dir.*
- Katy Heitstuman**, *Operations Mgr.*
- Kim Leighton**, *Intake Coordinator*

---

**American Civil Liberties Union  
of Montana**  
P.O. Box 1317  
Helena, MT 59624  
Phone: (406) 443-8590  
Fax: (406) 457-5484  
[www.aclumontana.org](http://www.aclumontana.org)

This newsletter is published  
three times a year.

- Scott Crichton**, *Publisher*
  - Amy Cannata**, *Editor*
  - Bill Rossiter**, *Editor*
  - Beth Satre**, *Layout & Design*
- 

**Roots of Civil Liberty**

On May Day, the Montana Historical Society held a commemorative celebration marking the 25th anniversary of the installation of the statue of Jeannette Rankin in the Statuary Hall of the US Capitol. The ACLU was one of the co-sponsors of the event that attracted people from across the state and who filled the Montana Capitol Rotunda.

It was an honor for me to be able to be included on the program to say a few words about an underreported part of Jeannette Pickering Rankin's remarkable life.

Remembered for being the first woman to be elected to the United States House of Representatives, Rankin is also known for being a lifelong pacifist. She, along with 49 colleagues, voted against the entry of the United States into World War I. And decades later Rankin courageously cast the lone vote against entering World War II.

For many, that is all they know about "the Lady of the House," but there is so much more to her story — a story that demonstrates a commitment to civil liberties as much as to peace.

Born in 1880, Rankin entered the School of Philanthropy (later to become the Columbia University School of Social Work) in 1908, and was exposed to the complexities of urban poverty in New York City. She then moved to Washington state and became involved in the suffrage movement, understanding the political imperative of extending voting rights to women. She learned to organize and brought back to Montana advocacy skills which helped enfranchise Montana women in 1914. In 1916, she became a candidate for the US House and narrowly won a three-way election as a Republican.

On Good Friday, in April 1917, she cast the first ever vote of a woman elected to the major legislative body of a free country when President Woodrow Wilson called for the United States to go to war with Germany. Breaking the tradition of a simple "yea" or "nay," Jeannette said "I want to stand by my country, but I cannot vote for war. I vote no."

She remained steadfast in her commitment to listen to her conscience, supporting measures that assisted the war effort in the hopes they would help carry the conflict to a speedy end.

Her conscience prodded her to vote against the War Espionage Act of 1917,



Photo: Susana Milman

**Executive Director  
Reflections**

*Scott Crichton*

which became a vehicle for baiting aliens and suppressing dissent. This act sent peace activist Eugene Debs to prison for nearly three years because he made a speech obstructing military recruiting.

Soon after the Anaconda Copper Company's Speculator Mine Granite Mountain shaft went up in flames in 1917, taking 167 lives, Rankin returned to Butte to address thousands of workers saying the war effort was important but so were the working conditions of miners. The Copper Collar press annihilated her, making certain that her bid for the US Senate in 1918 was unsuccessful.

That same year, Roger Baldwin became the head of the National Civil Liberties Bureau (NCLB), an independent outgrowth of the American Union Against Militarism. The Bureau opposed America's intervention in World War I. NCLB, in conjunction with the Fellowship of Reconciliation, provided legal advice and aid for conscientious objectors and those who were prosecuted under the Espionage Act or the Sedition Act of 1918 (the latter modeled after Montana's sedition act). Joining Baldwin were Crystal Eastman, Norman Thomas and Clarence Darrow.

WWI unleashed an unprecedented wave of intolerance, repression and violence. Free speech and due process were swept aside as government officials and private citizens led a national crusade to enforce patriotism and political conformity.

When the NCLB changed its name to the American Civil Liberties Union in 1920, Baldwin and Eastman led the charge with Walter Nelles as chief counsel and Jeannette Rankin serving as the ACLU's first vice president. They were joined by Jane Addams, Helen Keller, Albert DeSilver and Felix

## New ACLU Montana Board President

It is with sadness that we say farewell to our Board President Ed Stickney, who due to medical issues is stepping down from our board after four years of board service.

Ed and his wife Jess, (a former member of the Montana Legislature representing voters in Miles City) are longtime members of the ACLU. Ed has been a tireless leader and one of our most enthusiastic proponents.

His warm smile and insistent bell kept the board on task during numerous meetings. And Ed's compassion as a Billings-area physician has helped his many patients relieve their suffering. Ed has been a vocal supporter of the benefits of medical marijuana, and acted as one of the doctors on the forefront of this issue in Montana.

His leadership helped guide the ACLU of Montana through a period of enormous growth as we added staff and resources over the past few years thanks to support from the National ACLU and our members and donors.

"During my tenure as president, this affiliate has grown and matured beyond belief, so I feel honored to have been present at this period in our affiliate's history," wrote Ed in his good-bye letter. "I will carry with me always the good memories of these times."

We wish him well in his retirement.

New Board President Sheila Bonnand was elected this year to her third (and, due to board term limits, final) three-year term on our Board of Directors. She

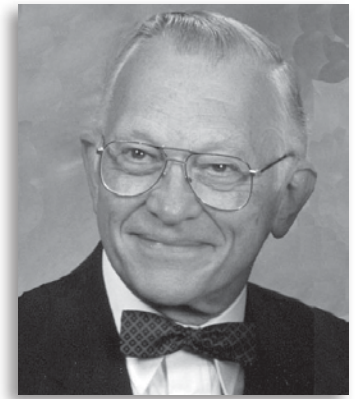
has served as Board Vice President for four years.

As a librarian and instructor at Montana State University, Bonnand is a passionate advocate for intellectual freedom and the First Amendment. She has also worked as a public school teacher.

While running for re-election to our Board earlier this year, Bonnand explained some of the reasons she volunteers for the ACLU and believes our work is essential in Montana and nationwide:

"Recently the ACLU of Montana had to file suit against the state of Montana over the cruel and unusual conditions under which a teenager is being held in the prison system. That this could take place now, in spite of years of working to improve prison conditions, is indicative of just how far we have to go... I also remain concerned over threats to privacy and freedom of expression, especially as the never-ending 'War on Terror' encourages citizens to give up certain freedoms in exchange for a perception of safety."

Bonnand and her husband, Guy, live in Bozeman.



*Ed Stickney*



*Sheila Bonnand*

## Annual Meeting Energizes Members

Discussions about hot civil rights issues, civil liberties trivia, a thought-provoking presentation on indefinite detention, an update of our legal program and good times with fellow members were highlights of our annual meeting in Bozeman.

Keynote speaker, Steven Watt, was kept busy on his visit to Montana. Before the annual meeting he spoke to a crowd of about 100 at the UM School of Law about his work to stop the U.S. government's illegal extraordinary rendition and torture policies.

Watt is a senior staff attorney with the National ACLU's Human Rights Program, specializing in litigation before federal courts and international tribunals. Watt is counsel in *El Masri v. Tenet*, and *Mohamed v. Jeppesen*, challenges to the CIA's extraordinary rendition program; *Ali v. Rumsfeld*, a suit challenging U.S. interrogation and detention practices in Afghanistan and Iraq; *Sabbithi v. Kuwait*, a case on behalf of three Indian women trafficked into the U.S. and enslaved by their diplomat employers; and *Gonzales v. United States*, a case before the Inter-American Commission of Human Rights on behalf of a victim of domestic violence.



*National ACLU Human Rights Program Attorney Steven Watt speaks to a crowd of about 100 people at the University of Montana School of Law. Watt is the ACLU's lead attorney on several cases involving extraordinary rendition and torture.*

## Upholding First Amendment Rights: A Delicate Balancing Act



### Legal Notes

Betsy Griffing  
Legal Director  
*The Jean Anderson Chair*

Free speech — it's what the ACLU is all about, right? Don't forget, we also protect other First Amendment civil liberties, such as religious liberty and the freedom of association. And, we staunchly defend the Establishment Clause which guarantees the separation of church and state.

So, what happens when one person's speech right bumps up against another's association right? Or, when one person's speech right involves a religious statement to a captive audience at a school-sponsored event? Often courts engage in a balancing of constitutional rights —

pitting the purpose and goals of one right against the purpose and goals of the other. It is a delicate balancing act, and certainly one that is not without its flaws, but in two recent cases the courts did not engage in a balancing of rights, but drew clear lines.

In *Citizens United v. Federal Election Commission*, the United States Supreme Court held that the federal law barring corporate expenditures for electioneering

purposes is unconstitutional under the First Amendment. The Court said that the identity of the speaker is not a critical factor in determining the breadth or application of the right to free speech. The Court also overturned two earlier cases — *McConnell v. Federal Election Commission*, which had just a few years earlier upheld a similar restriction on corporate campaign spending, and *Austin v. Michigan Chamber of Commerce*, in which the Court had previously upheld Michigan's regulations on corporate campaign spending.

The potential impact of the *Citizens United* decision is unknown. The ruling certainly raises a number of concerns and questions which the ACLU of Montana will be closely examining over the next few months. Putting aside the debate about corporate constitutional rights, at a fundamental level *Citizens United* reflects the tension between two aspects of the freedom of association contained within the First Amendment. On the one hand is the right of individuals to form an association (such as a union or a for-profit or nonprofit corporation) to advocate on a certain issue or support or oppose a candidate. On the other hand is the right of an individual to cast a vote (the constitutional basis for voting is in the First Amendment and freedom of association) that is not diluted or distorted by corporate speech and influence.

Usually when such constitutional rights are in conflict, courts weigh the purpose and goals of one constitutional right against the other. In previous corporate campaign spending cases, this balancing act resulted in decisions where the Court allowed restrictions on corporate spending to guard against the possibility of undue corporate influence over elections and in deference to state regulation of corporations. But the majority's decision in *Citizens United* rejected this balanced approach and, in doing so, raised the ire of numerous people and organizations who believe the value of an individual's right to speak for himself or herself through casting a fully informed vote based upon accurate information was lost on the Court.

Another example of such tensions within the First Amendment came up recently right here in Montana. A Butte High School valedictorian wanted to say in her graduation speech that she "didn't let fear keep me from sharing Christ and His joy with those around me... I learned not to be known for my grades or for what I did during school, but for being committed to my faith and morals and being someone who lived with a purpose from God with a passionate love for Him."

The school's policy states that it is responsible for the content of graduation speeches and those speeches cannot "communicate any endorsement of religion." Consequently, school administrators told the student she would have to delete references to her faith and God or not give

## New E-Mail Alert System in Place

Some of you may have noticed that the e-mails you are getting from the ACLU of Montana have recently changed.

It's now easier for you to take direct action when we ask you to help us write to legislators or inform your friends about civil liberties issues. That's thanks to our participation in a national e-mail program that gives us greater ability to segment e-mails and make it more efficient for you to respond.

Under this system, you receive two e-mails each week. Most weeks those e-mails will come from the ACLU's national office, but one time a month you will get an e-mail from the Montana affiliate.

If you haven't already, please sign-up to receive these very important e-mail alerts. You can do so by visiting our website, [www.aclumontana.org](http://www.aclumontana.org), and clicking on "About Us" and then "Sign Up for E-Alerts."

And of course, if you choose at any time to stop getting these e-mails, there is an option at the bottom of each to manage your subscription and unsubscribe.

Thank you.

*Legal Notes, cont. on page 5*

# Fighting for Intellectual Freedom

by Amy Cannata, Communications Director

The idea was hatched at the 2009 Montana Library Association in Kalispell.

I'd brought along a poster produced by National ACLU displaying books that had been banned in communities across the nation, and it was generating a lot of interest amongst the librarians there who had themselves experienced the problem of people wanting books removed from their collections.

ACLU of Montana Board Member and librarian Sheila Bonnard and I were talking about such challenges in Montana when it dawned on us: Why not create a Montana challenged books poster?

So the library association's Intellectual Freedom Committee and the ACLU of Montana teamed up to do just that.

One year later our poster, "Too Dangerous for the Big Sky?" was unveiled at the 2010 Montana Library Association conference in Bozeman to an enthusiastic crowd of almost 50 librarians. It was also distributed to other librarians at the conference for display amongst their stacks. Look for it at your library soon.

The poster was designed by East Helena graphic artist Luke Duran.

Unfortunately, Montana has a lengthy history of banning books.

The first documented case of a

book banning we could find is featured on the poster. In 1902, Butte banned the book, *The Story of Mary MacLane by Herself*. Seems Mary was a Butte woman of "questionable" morals. Even worse, in the book she dared to insult Butte and its citizens.

The next well-documented instance comes during World War I, when Montana passed its Sedition Act targeting Germans and anti-war expression. A law at that time banned numerous German books, including the songbook *Deutsche Lieder* on our poster.

Thankfully most modern book challenges in Montana have not been successful; still, while books may not be removed from libraries they are sometimes removed from schools' official curricula. That was the case with James Welch's *Fools Crow*, which is no longer required reading at Laurel High School.

Other books, like *The Giver*, by

**Too Dangerous for the Big Sky?**

|   |  |  |   |  |   |  |
|---|--|--|---|--|---|--|
| <p><b>AMERICAN PSYCHO</b></p> <p>Challenged in 1991 at the Flathead County Library in Kalispell because of its graphic scenes of sexual abuse. Banned by library.</p> | <p><b>Fools Crow</b></p> <p>This novel about the Blackfoot Tribe has faced ongoing challenges since 1988 for violence and sexual content. It was banned from the Laurel High School curriculum, but returned to the library after a lawsuit by the Montana ACLU.</p> | <p><b>The Giver</b></p> <p>Challenged in 1998 at the Columbia Falls School because of themes of isolation and euthanasia. Received full parental permission rate (without for younger students).</p> | <p><b>The Guy Book</b></p> <p>Banned in 2006 challenge at Leifwood Elementary School in Missoula over its sexual content.</p> | <p><b>I Know Why the Caged Bird Sings</b></p> <p>It states as required reading for freshmen at Hamilton High School was objected to because of sexual content and homosexuality.</p> | <p><b>The Story of Mary MacLane by Herself</b></p> <p>Banned in Butte shortly after its 1902 publication because officials said the Butte author offended public morality and treated Butte and its citizens.</p> | <p><b>Deutsche Lieder</b></p> <p>This German songbook was banned in Montana in 1918, along with other pro-German books during WWI under the Sedition Act and other anti-German laws.</p> |
|---|--|--|---|--|---|--|

Stand up for intellectual freedom in Montana. Read a Banned or Challenged Book Today.

Lois Lowry, have had restrictions placed on them. In 1996 a rule was put in place at Columbia Falls School requiring younger students to obtain parental permission to check it out.

With Banned Books Week coming the last week in September, we hope that you will take the time to read a banned book and stand up for intellectual freedom. And we're happy to help.

If you would like us to give a presentation on the history of book challenges and bans in Montana at your community library, please call me at 406-443-8590.

## Legal Notes, continued from previous page

the speech. She chose not to speak at graduation and sued the school district for religious discrimination and violating her right to free speech.

The Montana District Court ruled this year that the student's free speech rights were not violated because, under the Establishment Clause, the graduation was a school-sponsored event, and the school stated it was responsible for the content at the ceremony. Notably, the Court did not engage in a balancing test between the student's right to speak and the Establishment Clause's prohibition against state-sponsored religion.

The Ninth Circuit Court of Appeals has held that a school district is well within its discretion to prohibit proselytizing at a graduation ceremony. It has also upheld the ban of Ave Maria at

a graduation ceremony.

The Montana case has been appealed to the Montana Supreme Court, and we will be asking for permission to file an amicus brief, noting that it isn't necessary to throw one right out for another. The school district may adopt a policy prohibiting religious speech at graduation, but it is not required to do so under the Establishment Clause if it disclaims the content of the graduation ceremony and has a neutral method for selecting valedictorians.

We'll be advocating that a school district may adopt a balanced approach where a student can make a personal statement about her faith while making it clear that such a statement is not endorsed or supported by the district.

## ABCO Members Excited and Prepared to End the Death Penalty

by Jennifer Kirby, Montana Abolition Coalition Coordinator

“Are you awake?” asked Sister Helen Prejean. Prejean confessed that early in her life, she was not “awake.” She did not see, therefore she did not understand, the injustices of the world surrounding her. When you are not awake, you do not act.

“When we wake up on something, when we get it, it releases an energy that can last us the rest of our lives,” said Sister Helen.

Noted death penalty opponent and renowned author of the book *Dead Man Walking* Sister Helen was the keynote speaker at the Montana Abolition Coalition’s April annual meeting in Missoula.

Being awake and energized was the theme for the meeting where speakers and workshops were organized to help members become informed and become active in our work to end the Montana death penalty.

And bringing in Sister Helen certainly gave the roughly 100 people in attendance a rush of energy and enthusiasm to carry through the rest of this year and into



*Carolyn Madplume, mother of a woman murdered in Montana, speaks with Sister Helen Prejean, renowned death penalty opponent and author of the bestselling book *Dead Man Walking*.*

work to end the death penalty. “At the heart of Christianity is the death of Jesus — an unjust death, an execution engineered by corrupt priests and callous politicians. At the heart of Christianity is the principal that those whom have received mercy are to be merciful. And at the heart of Christianity is the renunciation of vengeance, is giving up retribution,” said Matt Randles, pastor of Helena’s Headwaters Covenant Church. “And so, as I see it, Christians, of all people, ought to be opposed to a system that is impossibly flawed.”

“Article 3: The Death Penalty and Your Rights” looked at how capital punishment relates to both human and civil rights. Organizer Rachel Carroll gave a tremendous presentation on the criminal justice system and how it impacts our rights as citizens and human beings.

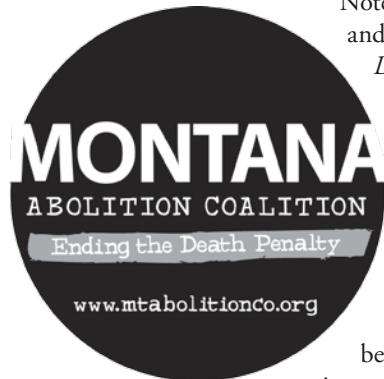
Tools to “wake up and take action” were the focus of the next session.

In Organizing 101 attendees learned how to build the abolition movement in their local communities, by organizing from the ground up. Participants learned how to plan local events, table at conferences, write letters to the editor of local papers, and much more. It fired them up to campaign in their hometowns for death penalty abolition.

The Lobbying 101 workshop was also a success, with attendees saying it truly taught them how to effectively talk to their legislators. 2009 abolition bill sponsor Senator Dave Wanzenried taught the group the dos and don’ts of citizen lobbying and then role-played a typical lobbying conversation. “Legislators listen to their constituents,” Wanzenried said. “That’s why these efforts — your efforts — truly matter.”

At the end of the evening, Sister Helen summed up the enthusiasm, commitment and knowledge generated at the meeting.

“Are we going to end Montana’s death penalty in 2011?” she asked, and was answered with an exuberant group “Yes!”



**Join the Montana Abolition Coalition and support our efforts to end the death penalty in Montana.**

**Visit [www.mtabolitionco.org](http://www.mtabolitionco.org)**

the upcoming Montana 2011 Legislative Session.

The afternoon began with a series of issue-related workshops, designed to give attendees more information about the myriad of complexities concerning capital punishment, and was followed up by a second round of workshops to put that information to work.

“Murder Victim Family Members and the Death Penalty” featured special guest speaker Jennifer Bishop Jenkins. Jennifer is a nationally recognized victims’ advocate. Jennifer’s sister, Nancy, Nancy’s husband, Richard, and their unborn child were shot and killed in 1990 by a 16-year-old. Since that time Jennifer has worked against the death penalty. “Nancy loved children and [the death penalty] is not what she would have wanted,” Jennifer said. The workshop gave attendees an insider’s perspective into the vital role of murder victim family members in the death penalty abolition movement.

“A Faith Response to the Death Penalty” brought together Montanans of numerous religious traditions, from Presbyterian to Protestant, Roman Catholic to Jewish, evangelical to Episcopal. Faith leaders helped to facilitate discussion about why people of faith should

## It's Happening Now!

### THE 2010 SPRING ANNUAL GIVING CAMPAIGN

Our volunteers — current and past board members — are beginning their phone calls to many of you. They offer you the opportunity to meet with them and make your annual gift to the ACLU of Montana Foundation.

As you have read in these pages, we are actively engaged in a host of legal and community education projects. We need your support to reach our goal of \$130,000 in individual gifts this year. So please, welcome those calls to meet with us.

When it comes time to fight for the right to privacy, the right to make our own medical decisions at any stage of our lives, the right to live free of discrimination, the right to live the life of liberty promised us in the Constitution, **IT IS ONLY WITH YOUR HELP THAT THE ACLU CAN BE THERE.** Thank you.

## Reflections, continued from page 2

Frankfurter (who later became an associate justice of the U.S. Supreme Court).

Rankin clearly understood the nexus between peace and justice. At the founding of the ACLU, she understood how fundamental First Amendment protections are to democracy.

Though no fan of the Industrial Workers of the World, she opposed government attacks on the rights of the IWW and other labor unions to meet and organize. She treasured our rights to speak, to publish, and to associate. Rankin understood the importance of Constitutional protections for due process and the rule of law. She stood shoulder-to-shoulder with notable social leaders of the day

protecting aliens threatened with deportation, and with U.S. nationals threatened with criminal charges for Communist or socialist activities and agendas.

The bonds between Montana and the ACLU were forged in a fundamental struggle to uphold core constitutional values. Though Rankin died in 1973, those bonds she helped forge remain strong today as we continue to fight for a vision where every individual is treated with dignity and enjoys full protections of civil liberties. We proudly keep Jeannette's memory alive with our Jeannette Rankin Civil Liberties Award which we award to acknowledge the significant contributions of

## Why I Support the ACLU



It became more important than ever for me to support the ACLU as I watched our civil rights erode under the Bush Administration. New leadership in Washington has not changed my commitment. The need for the ACLU continues in light of the growing movement of people who interpret our constitution as a protection of their rights, and no one else's. In particular, I am proud to be a part of an organization that has spent over a decade working to abolish the death penalty, and that is now promoting healthy and informed dialogue on our right to physician assistance in dying.

**For these reasons, and more, I continue to support the ACLU of Montana Annual Gift Campaign, and in 2009, decided to make sure my support continues into the future with a planned gift.**

*Linda K. Sandman, MSW, Helena, real estate agent and owner of SonHeaven Assisted Living in Helena, with nearly 40 years experience in elder care.*

individuals and/or organizations who demonstrate the strength of character and commitment to principles embodied in ACLU's mission and vision. Jeannette's spirit is with us and her legacy endures.

# End of Life Choices Conference Spurs Profound Discourse

by Amy Cannata, Communications Director

Thoughtful discussion and respectful debate ruled the day when concerned citizens, elected officials, attorneys, medical professionals, religious leaders and advocates for the terminally ill and for those with disabilities gathered at Carroll College in April for an ACLU of Montana conference on “End of Life Choices.”

Key participants in both the Montana case *Baxter v. Montana* and the implementation of death with dignity in Oregon, physicians, ethics and religious experts and others spoke



*Aid in dying was put into perspective by keynote speaker Ann Jackson, the former executive director of the Oregon Hospice Association, who revealed the facts about the practice in Oregon. Last year, 59 people took doctor-prescribed medication in Oregon to end their lives. A total of 460 patients have used Oregon’s death with dignity law since it was implemented in 1998.*

to more than 100 people about the promises and pitfalls of physician aid in dying.

Rather than take an advocacy role, the ACLU of Montana chose to present an unbiased, educational event that would spark conversation amongst attendees and spur them to carry the information out into their communities. Though we support aid in dying as a civil liberty, both those who support it and those who oppose it were invited to participate. Conference attendees overwhelmingly remarked on the conference’s balanced presentations.

The day began with an overview of the *Baxter* case and what it did and did not do. Journalist Tom Laceky gave a brief rundown of the case’s history.

Attorneys Mark Connell (who represented patient Robert Baxter) and Solicitor Anthony Johnstone (who represented the state) spoke of how the Montana Supreme Court in December 2009 sidestepped the issue of whether physician aid in dying is constitutionally protected. Instead the Court ruled that the practice as outlined in the case — aid given to a mentally competent, terminally ill adult patient — is not prohibited under state statute. Both agreed that it will be up to the Montana Legislature to hammer out the details of aid in dying regulations. Or the Legislature

could prohibit it all together.

After the legal discussion, the conversation moved on to medical ethics. Doctor Kathryn Borgenicht of Bozeman Deaconess Hospital spoke about how some patients can’t get enough relief from palliative care in

hospice, and that aid in dying is appropriate for people in the last stages of their illness who can no longer bear to live. Doctor Thomas Weiner of Helena’s Cancer Treatment Center, however, disagreed, saying that doctors should always work to preserve life, not take it.

Keynote speaker Ann Jackson provided much needed perspective on how often aid in dying is used and by whom. Jackson is the former executive director of the Oregon Hospice Association, and has seen how death with dignity has been implemented in that state. Since 1998, 723 terminally ill patients there have received prescriptions to end their lives. Of those, 460 have taken the drugs, and died.

The average age of the patients who have done so is 71. About half are men and half are women. Most are white, live in urban areas and have at least some college education.

Discussions in the afternoon focused on faith and vulnerable populations.

Rev. John Brooke of the United Church, of Christ in Cotati, Calif.; Moe Wosepka, executive director of the Montana Catholic Conference; and Rabbi Ed Stafman, of the Congregation Beth Shalom in Bozeman, discussed the role faith plays in dying and death.

Disability Rights Montana Executive Director Bernie Franks-Ongoy, retired physician Mary Anne Guggenheim and Brady School of Medicine professor Dr. Jan Van-Riper discussed the possible negative impacts physician aid in dying could have on vulnerable populations.

We don’t want the conversation to end at Carroll College, and are actively working on plans to get the information out to people in other communities.



*Attorney Mark Connell, who represented Robert Baxter in the landmark case that established physician aid in dying in Montana, and Montana Solicitor Anthony Johnstone, who argued against aid in dying for the state, both spoke about the case.*





*ACLU of Montana members traveled from across the state to meet with other civil libertarians, learn about our recent work and the issues of the day, and to have fun.*

## — End of Life Choices —



*More than 100 people gathered at Carroll College on an April Saturday to participate in an open and respectful conversation about physician aid in dying, organized by the ACLU of Montana and also sponsored by Humanities Montana and the Institute of Medicine and Humanities.*

### Learn More

- Watch a two-part video on end of life choices on our YouTube site: [www.youtube.com/user/ACLUMontana](http://www.youtube.com/user/ACLUMontana).
- Find more resources on our website: [www.aclumontana.org](http://www.aclumontana.org).
- Check your local listings for community television broadcasts of the conference.
- Host an event.

Let us know if you are interested in an informational event in your town. We are currently editing video footage from our April 10 meeting into a shorter and more manageable format, and are preparing a study guide to be used for community discussion. Call Amy Cannata at 406-443-8590.

## Annual Meeting continued from page 3

Watt is also co-counsel in our Montana *Robert Doe* case to help a teenager who has been locked up in solitary in the Montana State Prison for almost a year, Tasered and pepper sprayed. Robert Doe has twice tried to kill himself by biting through his wrist to puncture a vein.

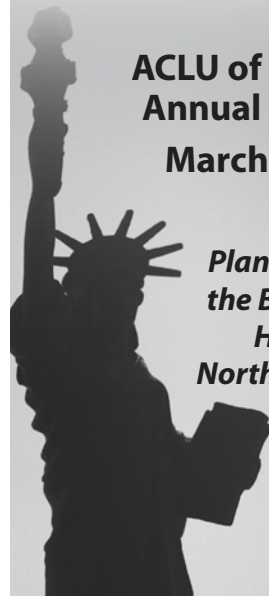
Watt gave a chilling presentation about some of the ACLU's clients who were detained by the CIA and sent to foreign prisons where they were held for years and tortured. When no evidence could be found against them, they were released, but remain physically and psychologically scarred.

Members got the chance to speak their minds during our two roundtable sessions, where they chose two of 10 civil liberties topics to discuss with board members, staff and other members. Topics included LGBT issues, reproductive rights, civil liberties in Obama's first year, medical marijuana and drug policy, immigration, the death penalty, civil liberties on campus, death with dignity, jails and prisons, and indefinite detention and torture.

All in all, the meeting was lively and informative. It's because of you — our members — that the ACLU of Montana is able to do its work!

## ACLU of Montana Annual Meeting March 5, 2011

*Plan to join us at  
the Best Western  
Helena Great  
Northern Hotel in  
downtown  
Helena.*



## Polson Reception



*ACLU of Montana members Vic Davis and Cindy Lewis share a laugh at our recent Polson reception.*



*Board member John Fletcher hears from member Deborah Tomas.*

The ACLU of Montana held its April board meeting in Polson, where we met with members in the Flathead and Mission valleys during an evening reception at the KwaTaqNuk Resort. We love hearing from you about your concerns and priorities on civil lib-

erties here in Montana and nationwide. Please come to our reception when we visit your area. Our next reception will be from 6-8 p.m. on Saturday, Sept. 18, at the Sacajawea Hotel in Three Forks. For more information, call us at (406) 443-8590. We can't wait to see you!

### Please consider an additional gift to the ACLU of Montana Foundation

Our successful legal work on the Nondiscrimination Ordinance in Missoula is only the beginning of a city-by-city campaign to illuminate the issue and educate the public about the LGBT community's need for freedom from discrimination. You can participate in the civil rights issue of our time by making a donation to the ACLU of Montana Foundation.

- \$1,000
- \$500
- \$250
- \$100
- \$50
- Other \$\_\_\_\_\_

Make checks payable to the ACLU of Montana Foundation or charge my credit card:

Visa\_\_\_ MasterCard\_\_\_ Discover\_\_\_ American Express\_\_\_  
Amount: \$\_\_\_\_\_

Name: Address: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Card #: \_\_\_\_\_ CCV#: \_\_\_\_\_ Exp: \_\_\_\_\_

Signature of Cardholder: \_\_\_\_\_

## Missoula Makes History

continued from page 1

Tired for me personally, tired of being called names, tired of being chased, tired of having my friends' houses burned down all because they're gay or lesbian, tired of being beaten myself, tired of having to come to meetings like this, tired of being told I'm a sexual deviant, tired of being told that you don't hate me but you don't want me to have my rights, tired of being told you don't discriminate against me and yet I shouldn't go into a bathroom or a sauna."

Missoula's new ordinance closely follows existing rules for how discrimination is defined and remedied under the Montana Human Rights Act, the state's anti-discrimination statute adopted in 1974. State law, however, does not include sexual orientation and gender identity as protected classes. Under Montana state law, it is still perfectly legal to deny someone a job, refuse someone service at a business, or turn someone down for renting an apartment, just because of the person's sexual orientation.

Under the ordinance, discrimination based on the person's sexual orientation or gender identity is prohibited in Missoula. Similar to existing state nondiscrimination laws, this ordinance does not prevent anyone from taking an action based upon a valid, non-discriminatory business reason. For example, a landlord may always refuse to rent an apartment to someone with a poor rental history. Just as state law prohibits decisions that are based upon a person's race, gender, or religion, this ordinance prohibits decisions that are based solely upon a person's sexual orientation and gender identity.

If a person believes he or she has been discriminated against in violation of the new ordinance, the person may file a complaint with the City of Missoula Municipal Court. The court will then determine the

merit of the complaint and can award compensation if the complaint is valid. There is no criminal penalty for a violation, unless and until the court finds a fourth violation within twelve months. A fourth violation is punishable as a misdemeanor with a \$500 fine, but no jail time.

Missoula already had some municipal code sections that prohibited discrimination, most notably in the area of housing, but none of these sections included the LGBT community. The new ordinance adds sexual orientation and gender identity to the existing lists of protected classes throughout the city's municipal code.

A drive to repeal the



*Hundreds of people marched to the Missoula City Council meeting to cheer-on the ordinance's historic passage.*

---

**"This ordinance is for every Missoula resident who believes in fairness and equality, who believes in fostering a welcoming and inclusive community, who says that this kind of discrimination should not be allowed, who says that leaving the LGBT community out of our non-discrimination laws is not to be done in their name." — Niki Zupanic**

---

ordinance through a referendum is already underway. If opponents to the ordinance gather the signatures of 6,395 registered city voters, the ordinance will be put to a public vote in the fall. Urge your family, friends, and neighbors not to sign any petition that would put these hard-fought rights in jeopardy.

Twelve other states protect the LGBT community in their anti-discrimination statutes, including Colorado, Iowa and Minnesota. For the last several legislative sessions, our state Legislature has refused to

add Montana to that list.

This failure to recognize and value the LGBT community led the ACLU of Montana to join with the Montana Human Rights Network to pass the nondiscrimination ordinance in Missoula. We hope that this victory in Missoula will become a great model for other cities and towns across Montana.

Interested in seeing a similar ordinance in your city? Contact ACLU of Montana Public Policy Director Niki Zupanic at 443-8590 or [nikiz@aclumontana.org](mailto:nikiz@aclumontana.org).



P.O. Box 1317  
Helena, Montana 59624  
[www.aclumontana.org](http://www.aclumontana.org)

Nonprofit Org.  
US Postage  
PAID  
Helena, MT  
Permit No. 221

## Stay In Touch!

- Follow the ACLU of Montana on Facebook
- Visit our website and blog at [www.aclumontana.org](http://www.aclumontana.org)

Summer 2010

## Join Us!

### Helena Community Forum on Sex Education

June 1, 6-8 p.m.

Lewis and Clark Library, Helena

*Hear from organizers, students and parents about the new sex education curriculum proposed for the Helena School District, and learn how you can advocate for comprehensive sex education in our public schools.*

### Helena Public Schools Board of Trustees

June 8, 6 p.m.

Front Street Learning Center, 815 Front Street

*Come testify on the importance of comprehensive and accurate sex education for our children.*

### Pride

June 18-20

Kalispell, various locations

*March with us Saturday morning in the parade down Main Street and then stop by our table at the fairgrounds.*

*More information at [montanapride.org](http://montanapride.org)*



*Katy Heitstuman (aka Lady Liberty) with her siblings Kristine and Robert Heitstuman at Pride 2009.*

### ACLU Reception in Three Forks

Sept. 18, 6-8 p.m.

Sacajawea Hotel, 5 N. Main Street

*Mingle with ACLU of Montana members, board members and staff at this historic hotel.*