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# DISPATCH

ACLU NEWS FROM TEXAS ☆ WINTER 2008/09



AMERICAN CIVIL LIBERTIES UNION  
of TEXAS

## ACLU of Texas Fights for Freedom at Legislature



**W**hen the Texas Legislature convenes for its 81st regular session on Jan. 13, the ACLU of Texas will once again be vigilant of the rights and freedoms of Texans.

From voting rights to immigration legislation, and from free speech to improving prison conditions, the ACLU will be working with lawmakers on a “legislative wish list” of bills that will hopefully become law. The following are

just a few of the areas that the ACLU of Texas will be working on during the upcoming session:

### **Real ID**

In May 2005, the U.S. Congress mandated the Real ID Act. The Real ID Act creates an identity card that everyone living in the U.S. would be required to have in order to board a plane,

*(Continued on page 7)*

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## FROM THE DIRECTOR'S DESK



# ACLU

### AMERICAN CIVIL LIBERTIES UNION of TEXAS

Dear Friends:

So, you've probably heard the one about the ACLU being an acronym for "All Criminals Love Us?" No?

How about, "The ACLU said today it was bringing a lawsuit against Santa Claus for civil rights violations of children. An ACLU spokesman, Mr. E. Scrooge, stated, "Mr. Claus has been violating children's right to privacy and putting that information into a vast database..."

I know you are as tired of all this as I am. That's why we at the ACLU of Texas have decided to do something about it. We're not going to take it any more.

Wait, you say, there is great news out there – progressivism is on the ascent, you say. And, it may be. On the national level.

Not on the state level, not so much in Texas. True, there are signs that some progressive legislation will be introduced and have a good chance of passage. But it isn't near enough. In other words, we live in Texas and the issues we Texans face will not disappear – unless we all put our shoulders to the plow.

What we saw on November 4 and since is that some elected officials are beginning to understand Texans want to restore the constitutional values that have been put on hold. Voters generated excitement for a more freedom-loving environment and their elected representatives are responding. Still some who come to Austin in January and some who run our cities, counties and schools are continuing their assault on civil liberties.

Here in Texas we face two more years, until the next statewide election, of a state government still controlled by those who seem to forget there *is* a Bill of Rights; two more years of local governments still committed to putting their religious and moral agendas ahead of the rules that guide our great nation.

As you read this, the 81st Legislative Session has commenced. There is no doubt your freedom and right to privacy are at risk, under the guise of proposals to get even tougher on crime and give police new power. Some legislators, along with the State Board of Education, want to violate the Constitution by implementing so-called Bible courses that dictate which doctrine to believe.

The Legislative Session runs until the end of May; we have 20 or more active, full-time volunteers working vigilantly to safeguard our freedoms. They – and we – need your help in reaching out to all Texans, informing them about their rights and supporting them in taking action to influence elected officials. At the same time, we will continue our assaults on the litigation front and our efforts to ensure we control our message and image.

We need you more than ever to stand with us as we face challenges in the legislature and in the courts of justice and public opinion. We need your time, your talent and always, your treasure.

With liberty and justice for all,

Terri Burke  
Executive Director



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P.S. You haven't missed the one about how the ACLU stands for "Always Causing Legal Unrest" have you?

# Legal Update as of Jan. 9, 2009

## *Arocha v. Needville Independent School District*

Last fall, the ACLU and the ACLU of Texas filed suit to stop Needville Independent School District (NISD) from punishing a 5-year-old American Indian boy for expressing his family's religious beliefs and heritage.

The boy, who wears his hair neatly bound in two long braids, has been raised according to his family's American Indian religious tenet that one's hair should only be cut for life-changing occasions, such as the death of a loved one.

The District's policy requires boys to keep their hair cut short above the collar.

Before classes started, the school conceded the child could not be forced to cut his hair, but instead demanded he bind his hair into one braid and keep it stuffed down his shirt at all times.

When the parents refused to subject their son to this humiliating treatment, the kindergarten student was removed from his regular classroom and placed in In-school suspension.

He was kept in suspension for several weeks until ACLU filed suit alleging NISD's conduct violated the First Amendment and Texas Religious Freedom Restoration Act.

Following preliminary hearings, U.S. District Judge Keith P. Ellison returned the child to his regular classroom pending a final ruling on our lawsuit.

## *Castelano, et al. v. Rice, et al. (U.S. Department of State)*

As of June 1, 2009, all U.S. citizens re-entering the U.S. via a land port of entry will be required to show a U.S. passport. However, the U.S. Department of State (DOS) has refused to issue passports to many Latino-Americans born on the border region and delivered by midwives, a common practice in Rio Grande Valley.

In September, the ACLU of Texas, the American Civil Liberties Union, Hogan and Hartson LLP joined a class action case filed by Lisa Brodyaga of Refugio de Rio Grande in federal court in McAllen, challenging the DOS' practices. Our claims include an allegation that the passport denials are based on race and ancestry in violation of the Equal Protection Clause.

## *Northwest Austin Municipal Utility District (MUD) No. 1 v. Gonzales*

Just before going to press, we learned the U.S. Supreme Court will review a lower court's decision in our favor defending the Voting Rights Act. We have a ruling from a lower court denying the Northwest Austin MUD's contention that a municipal utility district in Travis County is exempt from the Voting Rights Act.

As a *New York Times* op-ed said of the case: "(It) promises to... set the direction of the debate over race and politics for years to come." □

## 2009 Annual Membership Meeting

We're busy planning the first annual ACLU of Texas membership meeting for Aug. 1, 2009, in Austin. Now is the time for you to make plans to be part of it.

### **Five good reasons to come to the membership meeting:**

1. It's free...except for what you spend having fun in Austin. Yes, you read it right. No charge.
2. Special \$99 rate at the Omni Austin Hotel at Southpark, 4140 Governor's Row, Austin, TX 78744, for Friday and Saturday nights (July 31 and Aug. 1).
3. The day-long event is open to our entire statewide membership so you can reconnect with longtime friends. And meet other liberty-loving folks as well.
4. Get to know the ACLU of Texas board of directors and our staff.
5. Explore ways to turn your enthusiasm into activism.

If you have ideas for the program, please contact Field Organizer Tracey Hayes, [thayes@aclutx.org](mailto:thayes@aclutx.org). Tracey, along with the rest of the staff, is putting together a fun, informative and, we hope, inspirational program that will help you turn your ideals into action.

Watch the newsletter and our Web site for updates and registration information.

## ACLU of Texas Success Stories

The ACLU of Texas advocates for a just and free America on many fronts. While not comprehensive, the following list describes some of our accomplishments in defending and promoting freedom this past quarter.

- ★A 30-minute interview with Terri Burke about our legislative agenda aired on 26 Texas State Network radio stations on Jan. 3 and 4.
- ★Thanks to a grant from the ACLU Voting Rights Project, we engaged in a advertising campaign to educate formerly incarcerated people about their right to vote.
- ★The ACLU of Texas is continuing to monitor complaints from prison and jail inmates. Between Oct. 1 and Dec. 12, we received 307 letters from prisoners and their families.
- ★The ACLU Foundation of Texas held five Major Gift receptions – in Abilene, Austin, Fort Worth, Houston and San Antonio – to thank our major donors for their support.
- ★On Oct. 27, the ACLU of Texas hosted a series of educational events – including a news conference, a continuing legal education session, and a social event – to raise awareness of the continuing problems with drug law enforcement and the use of confidential informants. □

# Development Update

## ACLU of Texas Welcomes New Development Director

The ACLU of Texas is pleased to welcome **Ann Trump Daniel**, who joined the staff as director of development in November.

Ann has enjoyed an esteemed career in development, and previously worked at the University of Texas at Austin as the development officer first for the Department of Human Ecology and later for the Marine Sciences Institute.

Prior to entering development, Ann had a long and successful career in academic and professional publishing, both in project acquisition and in sales. Her specialty areas ranged widely, including math, science, business, computer science and technology, health, and nutrition.

Ann received a B.A. degree from DePauw University and an M.A. degree from Carnegie Mellon University. She is married to UT-Austin actuarial math professor Jim Daniel and has two grown stepsons and three very immature cats.

Ann enjoys reading, particularly mysteries, and travel. Book suggestions are always welcomed and she loves to talk about “foodie” destinations. □



### Make a Gift to the ACLU Foundation through your IRA

**D**id you know you can make a tax-free charitable gift from your IRA?

Now you can use your IRA to help provide for the defense of our liberties, and best of all—you will owe no federal income taxes on your distribution! If you are 70-1/2-years old or older, you may be able to make a tax-free gift of up to \$100,000 to the ACLU Foundation, directly from your Individual Retirement Account (IRA).

The Emergency Economic Stabilization Act of 2008 signed into law on Oct. 3, 2008 applies to direct distributions to the ACLU Foundation from your Traditional or Roth IRA made in 2008 and 2009. You can contribute up to \$100,000 in each tax year (if your spouse has a separate IRA account you can each contribute up to \$100,000 per tax year).

For more information about using your IRA to support the ACLU Foundation, please call, toll-free, 877-867-1025, and speak to one of the ACLU’s Gift Planning Officers. They are available to personally assist you with your questions. □

***Give the gift of freedom!  
Donate today at  
[www.aclutx.org](http://www.aclutx.org)***

### WAYS TO GIVE

#### **ACLU Foundation of Texas Gifts**

Donations to the ACLU Foundation of Texas, a 501(c)(3) nonprofit organization, are tax deductible and support the work of the ACLU in Texas and across the country. Foundation gifts fund our public education and litigation activities, as well as various special projects.

#### **ACLU of Texas Membership Dues**

Membership dues and gifts to the ACLU of Texas, a 501 (c)(4) nonprofit organization, are not tax deductible and benefit the work of the ACLU in Texas, and nationally, including lobbying activities.

#### **Legacy of Liberty Challenge**

If you name the ACLU Foundation to receive a bequest through your will or living trust, the Robert W. Wilson Charitable Trust will make a cash donation today equal to 10 percent of your future gift’s value.

#### **Workplace Giving**

The ACLU Foundation of Texas participates in workplace giving through Community Shares of Texas, [www.communitysharestx.org](http://www.communitysharestx.org).

If you have any questions about supporting the ACLU of Texas financially, please contact us at 512-478-7300 or at [jkennedy@aclutx.org](mailto:jkennedy@aclutx.org). Thank you! □

# Chapter News and Updates

For those of you who wonder what you can do to become more active as a member of the ACLU of Texas, check out what volunteers are doing in cities near you.

## FORT WORTH CHAPTER

The Greater Fort Worth Chapter held a Christmas party on Dec. 10 at the Botanical Gardens, where ACLU members and the general public celebrated the Christmas season.

The party promoted the work of the ACLU in protecting religious freedom for all people, including those who celebrate Christmas.

Included in the activities were civil liberties-inspired games as well as holiday-themed games, poetry readings, and a report on the history of the ACLU's fight for religious freedom.

In recognition of Banned Books week, the Fort Worth Chapter hosted a program on Sept. 28 with the Fort Worth Public Library, including a well-attended panel discussion with authors, professors, and community activists on the classic novel *The Adventures of Huckleberry Finn* and race.

In addition, a large collection of banned books was displayed in the lobby of the downtown library. The chapter distributed copies of the ACLU of Texas' annual report on banned books in Texas, "Free People Read Freely."

For a copy of the report, visit [www.aclutx.org](http://www.aclutx.org). For information about the Fort Worth Chapter, please email: [chapter@aclufw.org](mailto:chapter@aclufw.org).

## CORPUS CHRISTI CHAPTER

The Corpus Christi Chapter has taken the lead in organizing a coalition to fight attacks on Planned Parenthood in the area.

The chapter first became aware of the attacks from a newscast of a November City Council meeting where a faith-based group tried to convince the City Council



Left to right: Patricia S. Castillo, T.C. Calvert, Aubra Love, Terri Burke

to remove Planned Parenthood from a block of funding grants.

Efforts are underway to expand the coalition of people who are interested in protecting reproductive freedom and access to accurate, scientifically based sex education.

Our goal is to create a network of individuals ready to respond rapidly to future attacks on women's reproductive health and freedom.

We have received enthusiastic offers of assistance from NARAL Texas, and the Unitarian Church. The Corpus Christi Chapter of the ACLU of Texas, Planned Parenthood and others will be assembling a powerful team and invite you to join us.

For more information, please contact: [CCACLU@prodigy.net](mailto:CCACLU@prodigy.net).

## SAN ANTONIO CHAPTER

The San Antonio Chapter is working with Neighborhoods First Alliance to host an Organizers' Summit over Martin Luther King Jr. weekend (Jan. 17-19, 2009) in San Antonio. The Summit is coordinated with

the January 'Know Why You Are Marching Civil Rights and Film Series' event. It will feature prominent ACLU civil rights attorney Al Bronstein (who served as King's lawyer), presentations from local school children, and a special screening of the Sundance Film Festival award-winning film, *Trouble the Water*. Attendees may also attend the wreath-laying ceremony and march in the largest MLK Day march in the nation. For more information on the Organizers' Summit in San Antonio and to register for the event, visit: [www.aclutx.org](http://www.aclutx.org).

The 'Know Why You Are Marching Civil Rights and Film Series' was initiated in 2004 by activists in San Antonio as an answer to an identified lack of understanding by school children of the significance of marching on Martin Luther King Day.

These monthly events are held at the Martin Luther King (MLK) Academy in San Antonio. They are co-sponsored by Neighborhoods First Alliance, San Antonio Chapter of the ACLU of Texas, San Antonio Independent School District, MLK Academy, Calvert International Consulting, among others.

On Oct. 25, as part of the October 'Know Why You Are Marching Civil Rights and Film Series' event, the San Antonio Chapter and Neighborhoods First Alliance welcomed Aubra Love, executive director of Atlanta's Black Church and Domestic Violence Institute, as the keynote speaker about family violence prevention. Aubra Love's talk was moving and educational for the many ACLU members and supporters in attendance.

For more information about this series, please contact: Tracey Hayes, 512-478-7300 x 124 or e-mail [thayes@aclutx.org](mailto:thayes@aclutx.org).

# Staff Profile

## An Interview with Rebecca Bernhardt ACLU of Texas Director of Policy Development

### Why did you want to work for the ACLU?

I came to work at the ACLU because the ACLU was getting increasingly engaged in the issues I cared most about, including immigrants' rights and police practices.

### What is your professional background?

I grew up in Central California, and my home town is San Luis Obispo. I went to college at U.C. Berkeley and studied American Studies.

I got my law degree at Yale Law School and started practicing law while working in the Migrant Unit of Texas Rio Grande Legal Aid (formerly Texas Rural Legal Aid) in Plainview. I represented migrant farm workers, farm and ranch hands, and seasonal agricultural workers in employment, housing and education cases within a 50-county radius. I did a lot of driving!

After two years in Plainview, I moved to Austin and worked as a law clerk for Senior U.S. District Judge William Wayne Justice. Then I worked for the Texas Lawyers Committee for Immigrants Rights for one year and returned to TRLA in Austin, doing employment, immigration and civil rights cases.

In 2004, I took a position as a senior staff attorney with the ACLU Drug Law Reform Project. I worked on a case challenging the arrest and prosecution of several African American residents of Hearne, Texas on narcotics charges based on the word of an unreliable informant, who later admitted he had made up many of the alleged drug buys the case was based upon.

I also worked on a federal criminal case where dozens of Indian immigrant convenience store owners in rural Georgia were charged with intentionally selling the ingredients used to produce methamphetamine. I joined the ACLU of Texas in 2006.

### What do you do for the ACLU?

I direct the legislative and policy work for the ACLU of Texas. That means identifying issues and problems that can be addressed legislatively, or through policy advocacy and developing strategies to target change on those issues.

### What is on the horizon for the policy department?

We are headed into our busiest season - the Texas legislative session. We are promoting a series of proposals in the areas of



Rebecca Bernhardt

voting rights, free speech, health, youth, police, privacy, immigrant rights, sentencing and prisons.

We anticipate immigrants' rights and youth issues to be prominent, as well as a proposal for Texas to join other states in enabling syringe exchange in order to prevent the spread of disease and encourage drug users to seek treatment.

### What is a typical day like for you when the Legislature is in session?

When the Legislature is in session a typical day involves visiting legislative offices, drafting fact sheets and other legislative materials and attending hearings or monitoring the debate on the floor of the House or Senate chamber. This session I will be spending more time drafting fact sheets and reviewing the work of other members of our 'Lege Team' and less time "in the trenches" at the Legislature.

### What is the best part of your job?

I love the legislative process and teaching our legislative volunteers and staff how that process works. I also love the problem solving that goes into developing a strategy and plotting out the steps to implement it.

Finally, much of our work involves coalitions. And it is great fun working in a coalition and having the diverse tools and perspectives of different folks around the table while the coalition achieves its goals.

### What do you feel has been your most important contribution to the ACLU?

So far, I'd say my work during the past legislative session opposing more than 60 anti-immigrant bills and a very problematic border security bill, HB13. To defeat the anti-immigrant bills I worked with a diverse coalition of business, civil rights and religious groups. HB13 was a very important fight because the original bill would have put the governor's office in charge of state-wide intelligence, including a new database called TDEX. In part as a result of our advocacy, HB13 failed and the TDEX database was transferred from the Governor's Office of Homeland Security to the Texas Department of Public Safety. □

# Policy Update

The ACLU of Texas has spoken out in recent months about policies that violate the civil liberties of Texans. Here is an overview of the ACLU's continuing efforts to advocate for freedom in our state.

## **Opposing city ordinance in Irving**

On Oct. 3, the City of Irving hastily passed a housing ordinance that could be unconstitutional by ordering landlords and apartment managers to obtain from the city a license to operate, to conduct criminal background checks on all new tenants, and to participate in a crime-free training program. The ordinance will give police the power to decide who can and cannot lease apartments.

In response to passage of the ordinance, the ACLU of Texas in an open letter urged the residents of Irving to ask the City Council to come up with a revised ordinance that protects public safety, improves housing conditions and doesn't ask landlords to play the part of police officers.

## **Texas driver's licenses**

On Oct. 1, the Texas Department of Public Safety instituted new driver's

license rules that can cause hardships for citizens and non-U.S. citizens with permission to reside in the U.S.

The new rules require many license holders to provide annual proof of immigration status and perform in-person renewals, putting a strain on DPS. The rules also require the issuance of a license that looks radically different than the standard Texas license to certain non-citizens with permission to reside in the country, creating the possibility of racial profiling.

On Dec. 9, the ACLU of Texas and a coalition of civil rights groups and state legislators asked the Texas Public Safety Commission – DPS' governing body – to rescind the new rules.

## **SBOE revised science curriculum**

In November, ACLU of Texas Executive Director Terri Burke testified before the State Board of Education regarding a new draft of proposed standards for science teaching in the state's public schools. The standards would require schools to teach

so-called "limitations" of evolution and are an attempt to inject religion into public school science classes.

"Creationism in our classrooms violates religious liberty by promoting particular religious beliefs under the pretext of science education," Burke said. She asked the board to replace the "limitations" requirement with more scientific language.

## **Confidential Informant briefing papers**

On Oct. 27, ACLU of Texas Policy Strategist Matt Simpson released findings in a three-part briefing paper that outlined law enforcement issues and called for reforms to increase the fairness and effectiveness of law enforcement, as well as to prevent false accusations when police rely on confidential informants.

The paper made 10 recommendations, including the corroboration of information from an informant used to obtain a warrant and the reporting of crimes committed by informants. □

## ACLU of Texas at 81st Legislative Session

*(continued from page 1)*

enter a federal building, or a nuclear power plant. The ACLU of Texas holds that Real ID is costly and burdensome, compromises the privacy of Texans, and does not make them safer. The ACLU of Texas supports legislation that refuses to comply or fund Real ID.

### **Voting machines**

Continuous problems reported with electronic voting machines in Texas between 2004 and 2008 brings into question the reliability and accuracy of such machines. The ACLU will push for higher standards for voting machine certification and transparency in the state's voting machine system assessment process.

### **Practical immigration policy**

All residents of Texas, citizens and non-citizens, are entitled to due process and equal protection under the Constitution. Proposals that involve state and local officials in federal immigration enforcement lead to potential legal liability and undermine public safety, by taking police resources away from fighting serious and violent crime. Immigration enforcement is a federal responsibility.

### **Regulation of confidential informants**

Law enforcement relies heavily on information gleaned from confidential informants, who often trade information for leniency, at times resulting in the arrest, prosecution and conviction of Texans for crimes they did not commit. There is also little regulation of how informants are used. The ACLU of Texas supports greater vigorous oversight and supervision of police informants. □

# ASK THE EXPERTS!

## PUBLIC EDUCATION



Dotty Griffith

The ACLU of Texas has been known primarily for the lawsuits we file. We also have a strong reputation for our advocacy work in the legislature. There is more to activism, however. The third leg of the ACLU of Texas stool rests on getting our message out. That is the job of our new Public Education Department.

### What's the importance of the Public Education Department?

Telling our story is imperative to achieve the goals of the ACLU of Texas. That's why the new Public Education Department was created.

Keeping the public informed about individual liberty and civil rights is an important part of our mission. Educating, motivating and mobilizing people sustain our legal and legislative activities.

Through media communications, chapter activities, public events, and speaker's bureaus, the Public Education Department provides support for the ACLU of Texas and our chapters across the state.

### How does getting out the message figure in the ACLU's long-term goals?

Our mission is to protect the fundamental rights and liberties of people in the Lone Star State.

To do this, we focus attention on specific threats to those rights and liberties. Often we work with diverse coalitions of groups to leverage collective power.

That sounds simple and straight forward enough. Yet the ACLU nationally and in Texas is sometimes mis-labeled as a "liberal" or "anti-religion" organization.

We are neither ideological nor "pro" anything except the Constitution and the Bill of Rights. The only thing we are against is an assault on our basic freedoms.

Getting that message out is one of our major goals and is important to our success.

### What are the ACLU's goals in using new media?

The days when press releases and letters to members were the best way to tell our story are long gone. In fact, electronic communications such as e-mail and a Web site are no longer enough.

Today's information consumers want interactive communications. They want to join social networks such as Facebook to

***What we do is  
defend the  
Constitution and  
the Bill of Rights.  
Defending  
freedom isn't easy  
but it is the right  
thing to do.***

***- Dotty Griffith***

find like-minded individuals, take action and be informed. We intend to use new media to better communicate our message to our loyal members and in hopes of creating new ACLU of Texas card-carrying members.

### Who's who in the Public Education Department?

The newest member of our team is José

Medina who came to us in November from the *Las Cruces Sun-News*. As ACLU of Texas Media Coordinator, José is responsible for our website, e-mail and interactive social media campaigns. His expertise and enthusiasm already give us increased capability.

Kathryn Brimacombe, Public Education Associate, designs our newsletter and works on many other technical writing projects. She spends part of her time writing grant applications for the Development Department as well. Kathryn joined the staff in May 2007. A gifted writer, Kathryn brings three years of non-profit communications experience to the job.

I began working as the Public Education Director in June, and brought 34 years of media work with me to the ACLU of Texas. I spent three decades at *The Dallas Morning News*, and have experience in radio, television and social media. Using my communication skills as an advocate for the ACLU of Texas is a natural culmination for me.

### How do you want the image of the ACLU to change?

I want to remove the fear factor from the letters ACLU.

Not in the sense that I want to blunt our effectiveness, but I want people to know that what we do is not radical, nor is it partisan or ideological.

What we do is defend the Constitution and the Bill of Rights. Defending freedom isn't easy but it is the right thing to do.

I'm proud to be doing the right thing and I intend to spread the word. □