

# Virginia Liberties

Newsletter of the American Civil Liberties Union of Virginia Spring 2009

## ACLU Lawsuit Challenges Secrecy Provisions Hiding War Costs, Health Violations and Other Vital Information from the Public

The national office of the ACLU and ACLU of Virginia have filed a lawsuit in federal court challenging the over-reaching secrecy provisions of the federal False Claims Act, under which private citizens are entitled to bring complaints of fraud on behalf of the government.

Filed on behalf of Government Accountability Project and OMB Watch, the lawsuit asserts that the False Claims Act's secrecy provisions have hidden from the public an unknown number of allegations of military contractor fraud during the Iraq War, raising concerns that the government may neglect to take appropriate action against certain contractors.

The complaint also charges that the secrecy provisions can prevent the public from learning about ongoing threats to public health and safety, since alleged misconduct will remain a secret until the Justice Department takes action and the seal is lifted.

In some cases, whistleblowers have reported allegations of fraud to the media, which reporters are then unable to confirm because the case is sealed and the complainants are gagged. In this way the government is able to dismiss media inquiries while hiding behind False Claims Act secrecy provisions.

The False Claims Act was originally enacted under President Lincoln to combat war profiteering and other contractor fraud against the federal government. In 1986, it was amended to require that complaints be filed under seal and that whistleblowers be prohibited from speaking publicly about the complaints. The seal and gag are not lifted until the Justice Department decides whether or not it will pursue a complaint, which can be anywhere from 60 days to several years later.

According to government sources, as of July 2007, there were approximately 1,000 False Claims Act cases under seal.

## Virginia Curbs Federal Real ID Law

The ACLU of Virginia and Delegate Bob Marshall rarely see eye to eye, but when it comes to challenging the federal Real ID Act, that's a different story. Under pressure from a broad coalition of organizations, the Virginia General Assembly has passed, and the Governor has signed, a Marshall-sponsored and ACLU-supported bill that prohibits the state from complying with any provisions of Real ID that compromise the "economic" or "biometric" privacy of Virginia residents. Virginia now becomes the 22nd state to pass legislation limiting or opposing the Real ID Act.

Passed by Congress in 2005, but still unimplemented, the REAL ID Act imposes federal regulations on the design, issuance, and management of state driver's licenses that will soon be required to enter federal facilities or board an airplane. Because nearly every person will be required to have a REAL ID, it is the closest we have come to a mandatory National ID card.

Real ID gives the government access to an unprecedented amount of highly sensitive information about citizens that will be stored in a nationally-linked system of state databases. Critics, like the ACLU, say REAL ID will exponentially increase the risk of identity theft. Although the full meaning of the bill passed by the General Assembly is not absolutely clear, it appears to prohibit any ID, or databases linked to the ID, from containing biometric data (DNA, fingerprints or retinal scans) or financial information (tax returns or personal investment information) that compromises "economic privacy."

## LGBT Rights Advocate to Speak at Annual Meeting

Sharon McGowan, staff attorney with the ACLU Lesbian Gay Bisexual Transgender & AIDS Project, will speak at the ACLU of Virginia's Annual Membership Meeting on May 16. (See meeting details on inside cover.)

Sharon has worked on a broad range of LGBT issues during her career, but she has recently focused on cases involving transgender discrimination and the balance between the ability of schools to prohibit anti-LGBT harassment and the rights of students to express anti-gay views. Before joining the ACLU in 2004, Sharon was a

litigation associate at the Washington, D.C. law firm, Jenner & Block, where she was part of the plaintiff's litigation team in *Lawrence v. Texas*, the U.S. Supreme Court case that struck down all the remaining sodomy laws in 2003. She recently represented Diane Schroer in the precedent-setting case against the Library of Congress holding that discrimination against transgendered persons violates federal sex-discrimination laws.

McGowan will discuss the state of LGBT rights in the nation and Virginia, and what the ACLU is doing to advance LGBT equality.



Sharon McGowan

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# From the Director

## Lawsuits Lead to Legislation -- First Amendment Wins

Although their goals are the same, our legal and legislative efforts typically take separate paths. Recently, though, I was reminded of how intertwined they can be when three of our First Amendment lawsuits led to three bills -- two good, one bad, all victories -- in the 2009 General Assembly.

Last October, the State Board of Elections banned the wearing of political apparel or paraphernalia in polling places. We reacted by filing a lawsuit challenging the policy. With our case pending, legislators passed a bill guaranteeing the right to wear political buttons, stickers and t-shirts in polling places.

Last summer, a group of Gloucester County voters invoked a rarely used state law to remove local elected officials from office. The voters gathered the required signatures on a petition and filed their case, but the judge dismissed it, claiming technical problems with the design of the petitions. He then levied an \$80,000 fine on the voters who organized the petition drive. Concerned that the right to petition the government was chilled by the judge's actions, we offered legal support. With the case pending, the General Assembly passed a law preventing judges from sanctioning petitioners who use this law or dismissing their cases on a technicality.

Several years ago, we jump-started a lawsuit in Fredericksburg after a voter there complained that City Council was opening its meetings with a sectarian prayer. Last summer, after an appeals court ruled that only *nonsectarian* prayers were permitted in such situations, the head of the state police ordered his chaplains to follow suit. Unfortunately, that led to a bill guaranteeing chaplains the right to offer sectarian prayers at government events. We lobbied against the bill, which failed, and chaplains must now follow the court precedent we helped to establish.



Politics are complicated, and sorting out the variables at play in a particular situation can be difficult. But there is little doubt that in these three instances, ACLU of Virginia lawsuits laid the groundwork for the passage of two good bills and the defeat of one bad bill. In the end, three bedrock provisions of the First Amendment -- freedom of expression, the right to petition the government for grievances, and separation of church and state--were protected.

*Kent Willis, Executive Director*

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### *Virginia Liberties*

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## *Mark These Dates...*

### **ACLU Annual Membership Meeting**

Saturday, May 16, 2:00-4:00 p.m.

Virginia Center for Architecture

2501 Monument Avenue

Richmond, VA 23220

**LGBT Rights: Where Are We Headed?**

Presentation by Sharon McGowan,

ACLU LGBT Project

**Meet and Greet ACLU Reception**

Free parking is available in the adjoining lot with entrances on Park Ave. and Robinson St. We'd like to know if you'll be attending. Call us at (804) 644-8080 or email us at [acluva@acluva.org](mailto:acluva@acluva.org).

### **NOVA ACLU Chapter Annual Meeting and Crabfest in Alexandria, June 7**

Don't miss this annual ACLU tradition! Join the Northern Virginia Chapter of the ACLU on Sunday, June 7, from 1:00 to 5:00 p.m. at Fort Hunt Park, Area B, for crabs, hamburgers, hot dogs, veggie burgers, and more. Guest speaker: ACLU of Virginia Executive Director Kent Willis. For details, contact the NOVA ACLU Chapter at (703) 360-1096 or [novachapter@acluva.org](mailto:novachapter@acluva.org).

# ACLU of Virginia Legal Action

## Bloggers Have Free Speech Rights Just Like Other Journalists

The Founding Fathers could not have imagined a world with the Internet, full of social networking sites and citizen-run blogs, or an age of high-speed exchange of information. But the principles they laid forth in the Constitution are now being tested in modern-day free speech and free press cases.

Waldo Jaquith, a Charlottesville blogger, posted an entry about a defamation lawsuit filed by local author Thomas Garrett against *The Hook*, a Charlottesville weekly newspaper. Garrett subpoenaed Jaquith, seeking identifying information for anyone who posted comments about or even looked at Jaquith's blog entry, as well as any other documents in Jaquith's possession related to the lawsuit.

The ACLU, the Rutherford Institute and the Thomas Jefferson Center for the Protection of Free Expression are defending Jaquith and have filed a brief challenging the subpoena. The brief argues that bloggers are increasingly responsible for the dissemination of information and news, much like traditional newspaper or television reporters. As such, bloggers are deserving of the same rights as traditional journalists to keep their sources of information and notes confidential.

Jaquith's fight is more than for the principle of freedom of the press. If the legal threshold for obtaining bloggers' sources is lowered, it could have a chilling effect on free speech on the Internet.

## Immigrants' Rights Supporters March after ACLU Legal Threat

Acting on a complaint from an organizer who was denied a permit to protest the construction of a new detention center for undocumented immigrants, the ACLU sent letters to the Farmville Chief of Police and Town Council demanding that the former issue a parade permit to protesters and the latter significantly revise its ordinances controlling parades and demonstrations. Farmville's ordinances prohibit assemblies attended by noise, boisterousness, shouting, clapping, or singing that disturbs the tranquility of the community. The ordinances were amended and the Police Chief granted the protesters a permit to demonstrate.

## Sex Workers' Art Show Goes On as Scheduled at William and Mary

Lawyers for the ACLU of Virginia and the College of William and Mary reached an agreement that allowed the Sex Workers' Art Show to go on as scheduled on March 23. The show, a collection of performance vignettes that explore the working conditions of individuals involved in the sex industry, was nearly cancelled last year when college officials delayed approval and then imposed extraordinary restrictions on it. The same almost occurred again this year, when the college again placed unusual restrictions on the show, including banning the sale of merchandise, requiring a Q&A, prohibiting video taping of the event, and even prohibiting a post-show party. But on the eve of the show, the college dropped the restrictions, and we have been told that the show went off without a hitch.

### In Brief...

#### ACLU Prevails -- Again-- in Same-Sex Custody Case

In refusing to hear this case for the fifth time, the U.S. Supreme Court let stand the Virginia Supreme Court and Court of Appeals' rulings holding that Vermont holds jurisdiction in a custody dispute over a child born during a Vermont civil union of two women who separated and dissolved their union after the child was born. The Vermont court awarded custody to Lisa Miller, the birth mother, and visitation rights to Janet Jenkins. Miller moved to Virginia and refused to grant visitation to Jenkins claiming that Virginia's Marriage Affirmation Act supported her position. Between cases brought in Virginia and Vermont, Miller's lawyers have failed on five occasions to convince the Supreme Court to hear the case.

#### ACLU Supports Gloucester Residents Sanctioned for Attempting to Remove Elected Officials

The ACLU is assisting 40 Gloucester citizens who were ordered to pay \$80,000 in legal fees after they failed to remove four members of the Board of Supervisors from office. Meanwhile, the Virginia General Assembly passed a bill protecting the right of citizens to go to court to have a public official removed without fear of sanctions.

#### U.S. Supreme Court Supports ACLU Case Challenging Fredericksburg Prayer Policy

In *Turner v. Fredericksburg*, Fredericksburg City Councilman Rev. Hashmel Turner challenged the Council's policy requiring that all meeting-opening prayers be nonsectarian. The nonsectarian prayer policy was adopted after the ACLU threatened to sue the City Council if it continued to allow meetings to be opened with a Christian prayer. The ACLU filed an amicus brief in support of Fredericksburg's nonsectarian prayer policy.

#### Suit Challenges Ban on Political Apparel at Polls

The ACLU in December filed a lawsuit challenging the State Board of Elections' policy prohibiting the wearing of political buttons, stickers and apparel in polling places. The Virginia General Assembly passed a bill in 2009 allowing political apparel at the polls, which may resolve the problem.

#### ACLU Challenges Proposed Anti-Panhandling Ordinance in Richmond

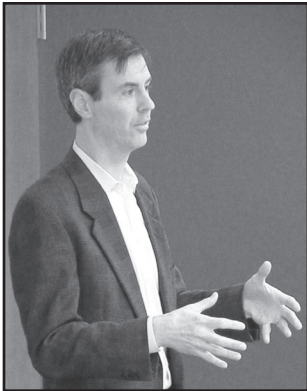
Richmond City Council is once again considering prohibiting panhandlers on sidewalks or curbs from soliciting vehicle occupants. The ACLU sent a letter in January to the Public Safety Committee of City Council urging it to drop a proposal that would make panhandling a Class 4 misdemeanor. The ACLU's letter states that if passed, the ACLU is prepared to offer legal representation to panhandlers affected by the unconstitutional ordinance. The Public Safety Committee continued discussion of this proposal until its April 20 meeting.

# Around Virginia

## Guantánamo Expert Addresses ACLU Supporters in Williamsburg

Chris Anders, Senior Legislative Counsel at the ACLU Washington Legislative Office and human rights observer at military commissions proceedings held at Guantánamo Bay, addressed a crowd of 55 ACLU supporters and students at William and Mary Law School in mid-March.

The program -- "Guantánamo and Beyond: Torture and Indefinite Detention: Where Do We Go From Here?" -- began with an ACLU documentary on how the U.S. government's use of torture, kidnapping and unlawful detention in the "war on terror" is undermining the foundations of our democracy. The film included firsthand accounts of torture from Guantánamo



Courtesy Photo: The Flat Hat- John F. Kirn, III  
Anders addresses ACLU gathering.

Bay detainees as well as interviews with Iraq War veterans who are outraged at the atrocities committed by the government. Following the film, Anders provided the audience with an update on Guantánamo Bay, the future for detainees, as well as an outlook on how the Obama Administration and Congress are handling these national security issues. The event ended with a thought-provoking question and answer session.

## NOVA ACLU Chapter Brunch Focuses on '09 Legislative Session

The Northern Virginia Chapter held its annual winter issues legislative brunch on February 1 with a crowd of over 75 ACLU supporters in attendance. ACLU of Virginia Legislative Counsel Hope Amezcuita explained how bills introduced in the 2009 General Assembly would impact civil liberties this year. She covered topics such as voting rights restoration, Real ID, immigrants' rights, religious liberty, and reproductive rights. Afterwards, there was a lively, extended question and answer period. A big thank you goes out to the Northern Virginia Chapter and its volunteers who provided another delicious brunch for everyone who attended.

### **Act Now! Legacy Challenge Ends May 31**

**With a single sentence, you can defend freedom now and forever.** Through the Legacy Challenge, including the ACLU in your future plans can qualify us to receive a 10% cash matching donation today from the Robert W. Wilson Charitable Trust. To learn more, visit [www.aclu.org/legacy](http://www.aclu.org/legacy) or call toll-free 877-867-1025. Or you can contact the ACLU staff in Richmond at 804-644-8080.

*Please Act Now. The Legacy Challenge ends May 31, 2009.*

## Student Chapters Educate Campuses and Communities

The ACLU Chapter at **William and Mary's Marshall-Wythe Law School** has covered a wide array of issues. In November, they hosted a talk on LGBT issues with Tracy Thorne-Begland, a former Navy Jet Navigator and current Deputy Commonwealth's Attorney in Richmond. Tracy challenged the military's "Don't Ask, Don't Tell" policy in court after coming out on national TV. In early March, ACLU of Virginia Board Member David Baugh provided students with an inspiring talk about being a criminal defense lawyer and discussed what it was like to be an African-American lawyer defending a KKK member. In April, Jessica Arons will give a talk titled, "A Holistic Approach to Reproductive Health Rights." Jessica is the Director of Women's Health and Rights Program at the Center for American Progress and also an ACLU of Virginia Board member.

In nearby Newport News, **Christopher Newport University** Chapter members raised awareness for LGBT rights on National Transgender Day of Remembrance by passing out pamphlets that included personal stories and poems written by victims of violence. They also held a panel discussion on religious tolerance with speakers from a wide range of religious organizations, as well as an atheist. In April, they will sponsor a screening of *The Trials of Darryl Hunt*, the story of a man who was wrongfully convicted of a brutal rape and murder and spent nearly twenty years in prison because of it. The documentary highlights the need for systemic reforms in our criminal justice system.

This winter, the **UVA Law School** Chapter organized a group of students to participate in Pro-Choice Lobby Day during the General Assembly Session. They have planned an event in April on the constitutionality of banning gay marriage in California under Proposition 8.

**UVA** undergraduate students in December hosted an event on civil rights and the war on drugs, during which the panel discussed the issues of medical marijuana, patients' rights, and racial profiling. The UVA group held a screening of *After Innocence* on March 11 to raise awareness of wrongful convictions. The chapter also has plans to hold a demonstration this spring to bring attention to inequities in the criminal justice system.

The **George Mason University Law School** Chapter in mid-March co-hosted with the Federalist Society a debate on the U.S. Supreme Court's interpretation of the Establishment Clause. Speaking on behalf of the ACLU was religious liberty guru Dr. Jeremy Gunn, and for the Alliance Defense Fund, Senior Counsel Jeff Shafer. The GMU Chapter will sponsor a panel discussion on torture and the future of Guantánamo detainees in early April.

# From the State Capitol- 2009 Session

*Below are some of the significant civil liberties issues addressed in this year's legislative session. The ACLU of Virginia and our grassroots supporters lobbied for or against more than 100 bills in the 2009 session. Because this newsletter goes to press prior to the April 8 veto session, there is a small chance that the status of some legislation will have changed.*

## ***New Law Protects Voters' Free Speech Rights in Polling Places***

Voters in Virginia may wear buttons, stickers, and even articles of clothing containing political messages when they go to the polls. On the eve of the presidential elections last November, the State Board of Elections ruled that political paraphernalia would not be allowed in polling places. We filed a lawsuit challenging the provision as a violation of free speech and then lobbied for a new law in the General Assembly. In all likelihood, we can now drop our lawsuit.

## ***Lawmakers Support Limitations on REAL ID Act***

The House and Senate have passed overwhelmingly a law that prohibits Virginia from complying with any provision of the federal REAL ID Act that requires DMV to invade the economic or biometric privacy of individuals applying for drivers' licenses. A REAL ID will soon be required to board airplanes or enter federal facilities. Virginia joins 21 other states in rejecting all or some of the REAL ID law.

## ***Governor Vetoes Expansion of Death Penalty***

For the third year in a row the Governor has vetoed a bill that could have dramatically expanded the death penalty by adding to the list of persons other than the actual killer who may be accused of capital crimes. Currently, under Virginia's "Triggerman Rule," only the actual perpetrator is eligible for the death penalty, with three specific exceptions. The Governor vetoed the bill eliminating the Triggerman Rule, as he did last year and the year before. (Legislators failed to override the veto in 2007 and 2008, but this newsletter has gone to press prior to the veto session.)

## ***Petitioners' Rights Protected***

Legislators acted to protect the right of voters to petition the courts to have elected officials removed from office. Forty Gloucester County voters attempted to have four members of the Board of Supervisors removed from office, but their case was thrown out on a technicality regarding the design of the petitions they used to gather signatures. They were also fined \$80,000 for filing a frivolous claim in state court. The new law will allow 'removal' cases to proceed despite minor mistakes made by petitioners and will prohibit courts from imposing court costs, including attorneys' fees and any other sanctions.

## ***Available Soon!***

### ***2009 Virginia General Assembly Review***

*For full details on these and other bills that impact civil liberties in Virginia, contact us at (804) 644-8080 or [lobby@acluva.org](mailto:lobby@acluva.org)*

## ***Student Voting Rights Bill Fails***

A bill allowing college students to register to vote in the locality where they attend school failed. Many college students failed to register in time for the presidential election last November when their applications were denied because they used their college address. The ACLU has long lobbied for this law and has provided legal assistance to students who were required to register to vote in their hometowns even when they no longer lived there.

## ***Reproductive Rights Still Intact***

For the fifth year in a row, no anti-choice bills passed the General Assembly, although five were introduced. Bills to place onerous and unnecessary financial requirements on abortion clinics all failed, as did a bill to require physicians to provide pregnant women with ultrasound images of fetuses before performing an abortion. A budget amendment prohibiting state funds from being used to support Planned Parenthood was also defeated.

## ***Voter Restoration Bills Fail***

Despite perhaps the most organized and concerted effort ever to reform Virginia's felon disfranchisement law, legislators in the House of Delegates failed to act. A bill passed the Senate, but was blocked in the House Privileges and Elections Committee on a close 12-10 vote. Virginia and Kentucky are the last two states in the nation to place a lifetime ban on voting after a felony conviction, requiring an act of the Governor for rights to be restored.

## ***English Only Bill Blocked***

After two straight years in which more than 100 anti-immigrant bills were introduced in the General Assembly, legislators cooled their xenophobic rhetoric in 2009. A House bill to make English the official language of Virginia failed, as did a Senate bill that would have required a criminal defendant to pay for the cost of a court interpreter if he loses his case.

## ***Bill to Expand Arrests and Searches Defeated in Senate***

For the second year in a row, a bill that would have granted law enforcement officials the authority to arrest individuals for all Class 1 & 2 misdemeanors passed the House, but was killed in a Senate Committee. Currently, Virginia law permits the arrest of individuals for such misdemeanors only in very limited circumstances. This bill would have expanded the power of law enforcement to make arrests in hundreds of new scenarios. And, since searches pursuant to arrests are legal, the effect of the bill would be to dramatically expand the power of the police to conduct legal searches.

## ***Government Prayer Bill Fails***

The Senate blocked a clearly unconstitutional House bill that would have prevented the chief of the state police from regulating prayers offered by police chaplains at government-sponsored events. The bill was a reaction to a policy implemented by the police chief last summer requiring that prayers offered by chaplains at government events be nonsectarian so as to comply with court rulings. A similar, but broader, bill introduced in the Senate failed to survive the committee to which it was assigned.

# Board of Directors Elections 2009

## 2009 Board Elections

*Below are alphabetically arranged ballot statements for the 11 candidates running for 9 vacancies on the 33-member ACLU of Virginia Board of Directors. Directors are elected to three-year terms. All ACLU of Virginia members in good standing may vote. Please see marking and mailing instructions on the ballot.*

## Affirmative Action

*The ACLU-VA Affirmative Action Policy seeks a diverse Board of Directors. Our goals are 50% women and 28% minorities. The Board currently has 38% women and 25% minorities. The ACLU encourages LGBT persons and persons with disabilities to seek board membership.*

## 2010 Board Nominations

*ACLU-VA members may seek nomination to the Board by submitting to the Nominating Committee a statement of interest and a request for consideration. Candidates who submit a statement of interest and a petition signed by five members will be placed on the ballot automatically. Deadline: March 10, 2010*

**Patrick Anderson (Alexandria):** I have been a board member of the ACLU of Virginia since 2000. I have served on the Policy Committee, the Planning Committee, the Development Committee and the Legal Panel. I was delighted and honored to represent the ACLU of Virginia as a voting delegate at the 2001 and 2005 biennial. I am interested in continuing to serve on the Board because I am devoted to working for justice for those who suffer injustice. In fact, as a criminal defense attorney, my entire career revolves around protecting a person's constitutional rights. I received my B.A. from Carthage College in 1985 and my law degree from the University of Richmond in 1988. I have served on many Boards and Commissions in Alexandria including the Alexandria Housing Authority and the Alexandria Symphony. I am active in my church and the PTA at my children's school. I am married and have 2 girls who love attending ACLU events. I have several hobbies including opera, singing, baseball and Civil War history. The struggle for civil liberties is more important now than ever before, and I am proud to be a part of the ACLU of Virginia. I am endorsed by the Nominating Committee for reelection to the Board, and I would appreciate your support.

**Nominated by the Nominating Committee**

**Janet Cook (Arlington):** It has been an honor over the past six years to serve on the Virginia ACLU board. I serve on the Planning Committee, currently chair the Development Committee, participate actively in affiliate fundraising—ever more important in these challenging times, and spend many hours as a Grassroots Lobbyist to the Virginia General Assembly. It seems to be inevitable that governments encroach on our natural and Constitutional civil liberties. While the change in administrations promises improvement on the national level, there remains much work to be done; and progress in Virginia is painfully slow. In 2009, the legislature voted to expand the death penalty, attempted to impose onerous restrictions on reproductive freedom, and defeated attempts to expand opportunities for early and absentee voting in Virginia. The ACLU was vitally involved in each of these issues and I was pleased to join our many members who called Senators and Delegates to help turn the tide of reaction in Virginia. Please give me your vote that I may continue to help lead the struggle to assure civil liberties protections for all Virginians. **Nominated by the Nominating Committee**

**M. Imad Damaj (Richmond):** I was born in Beirut, Lebanon, and then attended college at the University of Paris, France. I am currently a Professor of Pharmacology at the VCU School of Medicine. I have been involved in various community, social and educational programs for many years. Defending civil rights and First Amendment issues are very critical and dear to me, especially in these difficult days. I have been serving on the ACLU of Virginia Board since 2003, and I am a member of the Planning Committee and the Nominating Committee. I whole-heartedly embrace the ACLU's goals and principles and will bring, if elected, a strong commitment to protecting our free speech and other civil liberties. I will also continue to bring the perspective and the help of a very diverse community committed to the protection of our civil rights. **Nominated by the Nominating Committee**

**Stew Dunn (Alexandria):** I have served on the Virginia Board since 1991 and am currently a vice president of our affiliate and a member of the executive committee. I served for eleven years on the National Board of the ACLU of which nine years was as the representative of our affiliate. I have been on the board of the ACLU of the National Capital Area since 1981, including a term as president of that affiliate. In all of my ACLU roles, I have been and continue to be an active participant, including playing an active role in fundraising. I am dedicated to civil liberties and the ACLU. I would greatly appreciate your vote so that I may continue to devote my energies to civil liberties with particular emphasis on advancing First Amendment rights, racial justice and equality for women. I am a lawyer practicing in Washington and residing with my wife in Alexandria. **Nominated by the Nominating Committee**

**André A. Hakes (Gordonsville):** I am a criminal defense attorney in Charlottesville. I am privileged to defend civil rights and uphold constitutional guarantees of liberty on a daily basis. I am also daily disappointed by a system giving lip service to principles like "innocent until proven guilty," but tying itself in knots to justify whatever the police have done and convict my clients. I am appalled that defense counsel is not entitled to even the police reports in VA, but must "make nice" with the prosecution in order to get "open file" discovery – which means whatever the prosecutor wants to share, since it is not enforceable. I am also a lesbian, with my partner for 13 years, and raising a 3-year old boy adopted from Vietnam. I have been out since college, but until 2008 I had never felt personally discriminated against, and my disgust with the state of Virginia law and politics was primarily on my clients' behalf. My partner and I voted and wrote checks to Human Rights Campaign, Lambda Legal, and ACLU, but were not activists. Last year, the religious right inserted itself in my life and the lives of my family by trying to take our son away because of our sexual orientation. I have since become much more active, organizing monthly events in favor of equal rights and speaking out publicly. I would relish the opportunity to be on the Virginia ACLU Board, and further the important work of realizing liberty and justice for all. **Nominated by Nominating Committee**

**Gene Hulbert (Richmond):** I have had the privilege of representing the Richmond area on the Board since 1991. I am an ardent supporter of the Bill of Rights and of freedom of expression and association. Regular attendance at Board meetings keeps me aware of and familiar with local and regional issues. This is invaluable in my special area of interest and activity: outreach to and recruitment of new members for the ACLU organization. By being active on the Board and in touch with the Central Virginia community, I frequently bring matters of mutual interest and/or concern to the Virginia Chapter staff for evaluation and/or action. As an engineer, I offer a valuable diversity in profession and in point of view to the Board. I actively monitor and advocate for issues of technology and electronic privacy. I would be pleased to continue serving on the Board. **Nominated by the Nominating Committee**

# Board of Directors Elections 2009

**Dorinda Parkola (Virginia Beach):** In my opinion, the ACLU is the embodiment of the belief that government must not be allowed to infringe on individual rights under the guise of security or protection. The ACLU is the watchdog of the people and stands for the ideals on which I embarked in my legal career. Over the past six years I have practiced law in both private practice and with the Legal Aid Society of Eastern Virginia, in addition to working as a commodity manager for the New York Times, Co. Currently, I am a litigation associate with the law firm of Huff, Poole & Mahoney, P.C., located in Virginia Beach. I am a long-time ACLU member, and also a member of the Legal Panel. I wish to take an active leadership role within this organization, and with my background in business and law I possess the skills needed to assist in its governance and guide the achievement of its mission and purpose. If elected, I will bring my passion for and understanding of the sanctity of our civil rights, and my personal interest in defending against the erosion of our 4th Amendment protections against unlawful search and seizure. Not being a current Board member, my election will ensure that fresh ideas and perspective are introduced into the governing body of the ACLU, and I would greatly appreciate the chance to be a part of such a noble organization. **Nominated by the Nominating Committee**

**Ed Rosenthal (Reston):** Becoming active in the Northern Virginia Chapter is one of the best investments I've ever made. Serving on the Board and hosting the Chapter's meetings, and working on the statewide Legal Panel, have been incredibly rewarding. The amazing volunteers, with their infectious enthusiasm and dedication and constant, cheerful optimism, has inspired me. Now, I'd like to do more. I think my breadth of hands-on work in state and federal courts and my law firm managerial experience can add something; and I'd love the opportunity to do so by serving on the state Board. I've practiced law and managed a small law firm in Alexandria since 1976. I've tried cases and argued appeals leading to important results involving civil liberties issues: illegal searches/arrests; Virginia's death penalty; the Fourth Amendment exclusionary rule; immigrants' rights in deportation; charitable immunity of religious groups; bail on appeal; confrontation clause limits on admission of records, statements, and opinions; defendants tried-in-their-absence; accused's right to self-representation; evidence of unrelated crimes; speedy trial; violent/lawless prison conditions; involuntary confessions; withholding of exculpatory evidence; protecting the interests of children in court-approved settlements. I've enjoyed lecturing at high schools and universities on civil rights and criminal law issues. I've helped train new federal judges. I worked with others to bring a public-defender system to Alexandria. I'm also the author of "The Bill of Rights in Its 200th Year: A Casualty of the War on Drugs?" published in George Mason University's Civil Rights Law Journal. **Nominated by Petition**

**Preston Royster (Fairfax County):** I have been on the ACLU of Virginia Board since 2000 and am very interested in continuing to be of service to Virginia's premier civil liberties organization. I am currently a member of the Policy Committee and the Affirmative Action Committee, and I have previously served on the Development Committee, the Legal Panel (although I am not lawyer), and as Chair of the Policy Committee. I am especially disturbed by discrimination against blacks, Hispanics and Asians in our criminal justice system, and have recently devoted much of my ACLU energies to fighting Virginia's felon disfranchisement law, a remnant of the Jim Crow era that disproportionately affects racial minorities. I have been involved in civil rights since my college days, dating back to 1959. My accomplishments of note include the creation of an equal rights association in Prince William County in 1969, serving as the director of EEO nationwide for the U.S. Dept. of Education, as a member of the Fairfax County NAACP since 1998, and on the Fairfax Human Rights Commission since 1992. **Nominated by the Nominating Committee**

**John Vail (Alexandria):** I am a career civil rights-civil liberties junkie. After 18 years as a legal aid lawyer, I now am Vice President and Senior Litigation Counsel for the Center for Constitutional Litigation, a national law firm in DC. I have been on the board since moving to Virginia in 1997 and currently serve as President. Prior to my arrival, I was President of the North Carolina ACLU. I am keenly aware that no battle for civil liberties ever stays won. I think the purpose of the ACLU is to re-educate the public about this truth and to enlist the public to fight the battles. I do grunt work. I have served as chair of the development committee, whose work has allowed us to expand staff, and the planning committee, which has helped us choose wisely how to spend our expanded resources. I am proud of many of our efforts, but particularly proud of our effort to look ahead. We are building personal relationships with members, which leads to their willingness to support the organization they know and feel part of. We have a strategic plan, which allows us to say: given new resources today, this is how we would use them tomorrow. We are successfully recruiting a new generation, gaining significant membership among students. We are assuring that this next generation has meaningful opportunities for leadership. Look now at the Virginia ACLU. There are young people there who will be leading civil libertarians over the next half-century. And there are some determined geezers whose own half-century is not up yet. **Nominated by the Nominating Committee**

**Elizabeth A. Witt (Alexandria):** I have served on the Board of the Northern Virginia chapter since 2005. As a member of the board, I have participated in planning and carrying out events including the chapter's annual meeting, annual legislative update, and events for speakers on civil liberties issues. I have also participated in fund raising activities for the Liberty Campaign. My primary task for the Northern Virginia chapter has been to conduct a monthly review of minutes and agendas for local governmental bodies, looking for activities that may be of interest from a civil liberties perspective. Each month, I review the activities of three local library boards, eight school districts and twelve city/county government boards. Based on this review, I report on findings to the Chapter Board and pass on reports to the state affiliate. In recent years, I have paid particular attention to how local governments in Northern Virginia have dealt with civil liberties issues related to illegal immigration. I am interested in serving on the state affiliate board as a means of extending my activities on behalf of the ACLU. Because of my recent work for the Northern Virginia board, I am particularly interested in immigration issues. I would like to see the ACLU of Virginia conduct a review of local government activities in regards to immigrants throughout the State. I am also interested in working with the state affiliate on voting rights restoration for convicted felons and in anti-death penalty activities. **Nominated by Petition**


## ACLU of Virginia Board Ballot 2009

*Detach ballot and mail to the ACLU of Virginia in an envelope with your name and return address on the exterior. Joint memberships are entitled to two sets of votes. Each member may vote for no more than 9 candidates. To ensure anonymity, ballots will be separated from envelopes once verification of membership is established. **Mailed ballots must be received by May 15.** Ballots may also be cast at the annual meeting on May 16.*

_____ Patrick Anderson	_____ Dorinda Parkola
_____ Janet Cook	_____ Ed Rosenthal
_____ M. Imad Damaj	_____ Preston Royster
_____ Stew Dunn	_____ John Vail
_____ André A. Hakes	_____ Elizabeth A. Witt
_____ Gene Hulbert	

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Newsletter of the ACLU of Virginia

**You're Invited!**

ACLU of Virginia

Annual Membership Meeting  
and

Meet and Greet Reception

Saturday, May 16, 2:00-4:00 p.m.

Virginia Center for Architecture  
2501 Monument Avenue, Richmond

Keynote Address:

**LGBT Rights: Where Are We Headed?**

**Sharon McGowan**

Staff Attorney

ACLU's Lesbian Gay Bisexual Transgender Project

We'd like to know if you'll be attending. Call us at (804)  
644-8080 or email us at [acluva@acluva.org](mailto:acluva@acluva.org). Details inside.

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I would like to support the public education and litigation work of the ACLU Foundation of Virginia. Please find enclosed my tax-deductible donation of \_\_\_ \$50 \_\_\_ \$100 \_\_\_ Other

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