

ACLU of Virginia



Annual Report 2013

Finances *

Combined budgets for the ACLU of Virginia, a 501 (c)(4) tax-exempt non-profit organization, and the ACLU Foundation of Virginia, a 501 (c)(3) tax-exempt non-profit organization, for the last fiscal year (April 2012-March 2013). Donations to the ACLU Foundation of Virginia are tax-deductible.

Revenues

Membership Dues	\$	253,305
Foundation Donations	\$	887,839
Endowments, Trusts	\$	464,831
Grants & Fellowships	\$	12,000
Other	\$	6,942
Total	\$	1,624,917

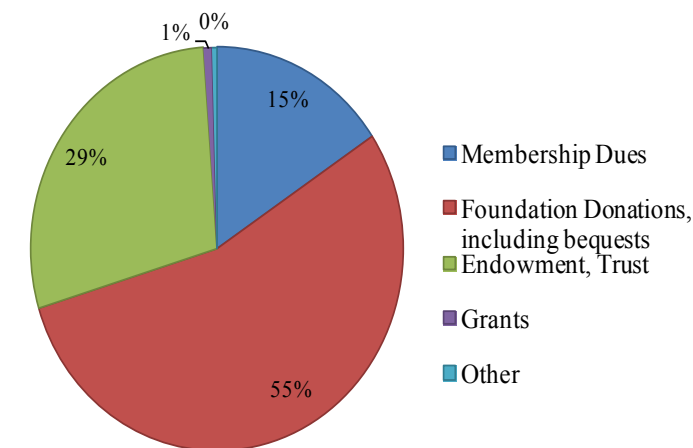
Expenses

PROGRAMS		
Legal	\$	315,948
Legislative	\$	134,645
Public Education	\$	231,920
SUPPORT SERVICES		
Management	\$	72,788
Fundraising	\$	6,696
Total	\$	816,997

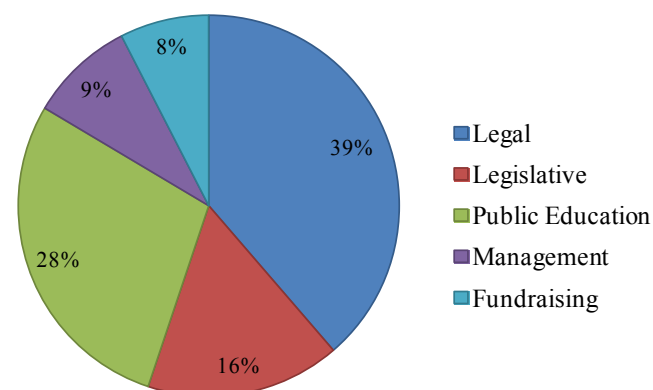
Volunteer Services

Legal Services	\$	299,890
Other	\$	104,500
Total	\$	404,390

Revenues



Expenses



Board of Directors

Jeff Kerr, President	Ed Rosenthal, <i>Chair, Legal Panel</i>	Jim Heilman	Isabelle Richman
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	Vivian Hamilton	Jerry Peters	

Staff

Claire G. Gastañaga, <i>Executive Director</i>	Valerie Jones-Fleming, <i>Office Manager</i>
Elizabeth Wong, <i>Deputy Director</i>	Kathy Greenier, <i>Director, Reproductive Freedom Project</i>
Rebecca Glenberg, <i>Legal Director</i>	Tamara Mason, <i>Communications and Development Assistant</i>
Frank Knaack, <i>Director of Public Policy and Communications</i>	Aisha Michel, <i>Associate Director of Public Policy and Communications and Director, Patricia M. Arnold Women's Rights Project</i>
Hope Amezcua, <i>Staff Attorney and Legislative Counsel</i>	Joseph Montano, <i>Paralegal</i>



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To learn more about the ACLU of Virginia or to support the ACLU Foundation of Virginia, contact us at 804-644-8080 or go on our website, www.acluva.org

"The force of waves is in their perseverance." Gila Guri

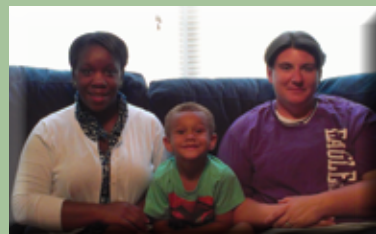
Dear ACLU Supporter,

What the ACLU of Virginia team accomplished this past year was significant in its impact and remarkable for its breadth. From the nation's first statewide moratorium on the use of drones by law enforcement, to limits on use of restraints on incarcerated pregnant women, to continued efforts to challenge state-endorsed prayer, and more, we have truly been the guardians of liberty.

This year will be even more challenging. On August 1, the ACLU of Virginia, the national ACLU and Lambda Legal filed a federal lawsuit to overturn Virginia's ban on relationship recognition for same-sex couples. We've asked the court to certify the case as a class action so that we can represent all Virginians seeking the freedom to marry or recognition of their valid marriages from other jurisdictions.



Freedom to Marry Plaintiffs, Victoria Kidd and Christy Berghoff with daughter Lydia



Freedom to Marry Plaintiffs, Joanne Harris and Jessica Duff with son Jabari

We'll also be working to restore the proper balance between privacy and security when it comes to law enforcement use of new technologies. For example, our State Police used automatic license plate recognition (ALPR) technology to build a data base of 8,000,000 bits of information about cars and their locations, including information on every car that crossed the Potomac River on the day of the 2008 presidential inauguration. What the State Police did violated a state law that prohibits this kind of passive collection of data in the absence of a demonstrated "need." The ALPR data base has now been destroyed, but this example illustrates the need for new and stronger state legislation that sets proper and reasonable curbs on government use of all "spying" technology whether drones, ALPR, GPS tracking (real time or past), or technologies not yet known but sure to be developed.

We have much more to do to overcome racial injustice in our criminal justice system, from shutting off the school to prison pipeline to addressing documented racial disparities in marijuana enforcement. Disparities in the criminal justice system become disparities in voting when one looks at the hundreds of thousands of Virginians who remain disenfranchised by Jim Crow era laws permanently barring any felon from voting.

Our ability to make progress in any of these areas in the year ahead is about having the support of thousands of Virginians, strong volunteer leadership, a committed and talented staff, and, most of all, a dogged perseverance that sends the signal that we will be unflinching and indefatigable in our work to secure and protect civil liberties and civil rights for all.

Claire G. Gastañaga, Executive Director
Fall 2013

Women's Rights

Reproductive Freedom

On April 12, 2013, the Virginia Board of Health approved final, permanent regulations imposing burdensome and unnecessary construction requirements on women's healthcare centers that provide vital comprehensive reproductive health care services, including safe, legal first-trimester abortion. Women's health care centers in Virginia must now spend hundreds of thousands of dollars on medically irrelevant architectural renovations, or close their doors. For years, policymakers in Virginia and across the country have continued, and expanded, their assault on reproductive rights. The ACLU of Virginia is thus pleased to announce the launch of its Reproductive Freedom Project. This project seeks to shift the conversation on abortion and engage more Virginians in the fight to preserve constitutionally protected reproductive rights and expand equal access to comprehensive reproductive health care services and options.



Use of Restraints on Pregnant Inmates Now Limited

Thanks to advocacy by the ACLU of Virginia and a diverse coalition of faith-based organizations, women's rights advocates, and prison reform groups, Governor McDonnell approved proposed regulations limiting the use of restraints on pregnant inmates in Virginia's local and regional jails. Nonetheless, the fight to secure dignity and safety for inmates and their pregnancies is not over. The rules are subject to public comment, which brings the Commonwealth one step closer to final adoption of these new rules. The sixty day public comment period, ends on September 27, 2013. The Board of Corrections will then vote on adopting new rules. If approved, the rules will become final.

Court of Appeals Strikes Down Virginia Sodomy Law

By a 2-1 vote, a panel of the U.S. Court of Appeals for the Fourth Circuit held that no person can be prosecuted using Virginia's "Crimes Against Nature" statute, which criminalizes all acts of oral and anal sex (including private acts between consenting married and unmarried adults). The ACLU of Virginia joined Lambda Legal and University of California, Irvine Law School Dean Erwin Chemerinsky in a friend-of-the-court brief urging the Court of Appeals to invalidate all prosecutions under the statute. The Court of Appeals wrote that the U.S. Supreme Court's landmark 2003 ruling, *Lawrence v. Texas*, invalidated all state statutes that criminalize sexual activity between consenting adults, and ruled that such statutes may not be the basis of any criminal prosecution.

Use of Drones Limited in Virginia

Virginia became the first state in the nation to adopt statewide limits on the use of drones, when the Governor signed legislation imposing a two-year moratorium on drones. The moratorium legislation had the following features: 1) a two-year moratorium on the use of drones by law enforcement and regulatory agencies; 2) a prohibition on the use of weaponized drones; 3) an exception to the moratorium that allows the use of unweaponized drones in search and rescue, and where Amber Alerts (children), Senior Alerts (older adults), or Blue Alerts (police) are activated; and 4) an exception to the moratorium that allows the National Guard to use drones as needed to maintain readiness for its federal mission, but not for any law enforcement activity.

The moratorium paves the way for permanent legislation that includes a warrant requirement, addresses privacy concerns, assures public oversight imposes image retention restrictions, bans the use of all weaponized drones, and enacts policies regarding auditing and effectiveness tracking.

The Fight for Restoration of Rights Continues

The Governor's new "automatic" restoration of rights program, although a step forward, sets the bar too low to be defined as a success. Under the Governor's plan, up to 6,000 disenfranchised Virginians will regain their voting rights before the October registration deadline for the 2013 election. This means that more than 350,000 Virginians will remain disenfranchised under the Governor's program, despite fully completing their sentences. While the ACLU of Virginia commends the Governor for the progress he has made in restoring voting rights compared to his predecessors, much bolder actions need to be taken to restore the voting rights of more individuals. One step the Governor can take is to classify most drug offenses as non-violent, just as they are classified under state sentencing rules. The 6,000 disenfranchised Virginians set to regain their voting rights before the November election are a far cry from the originally projected 100,000.



Challenge to Virginia Laws on License to Perform Marriage

Virginia law requires that ministers be authorized by a judge before they can solemnize a civil marriage. But the law imposes different requirements depending on whether the faith leader is seeking authorization as an "ordained minister." Ordained ministers may be authorized to perform marriages without posting a bond, and any number of ministers from one congregation could be authorized to do so. By contrast, religious organizations without ordained ministers are only allowed to have one person from their congregation to solemnize marriages, and that person must post a \$500 bond. We represented four individuals from two Northern Virginia Sikh organizations who challenged those requirements in Fairfax County Circuit Court. The ACLU of Virginia filed a brief on behalf of the petitioners on December 19, 2012, and arguments were heard on December 21, 2012. On March 29, 2013, the Fairfax County Circuit Court judge ruled in favor of the ACLU of Virginia, holding that the statute requiring some faith leaders to post a bond but allowing judges to authorize others without a bond requirement is unconstitutional. The judge also granted the clients the authority to perform marriages.

Freedom of Speech Applies to Online Comments

A Virginia woman exercised her first amendment rights when she took to websites Yelp and Angie's List to express her displeasure with former contractor Dietz Development, LLC. Her posts described a number of problems. Dietz Development then sued the woman for defamation in Fairfax County Circuit Court, asking the judge to order her to remove her posts and to refrain from any further criticism while the lawsuit is pending. The judge refused to enjoin any of Perez's criticism of the contractor's work, but on December 7, 2012, he ordered her to remove her description of how she discovered some jewelry missing when only Dietz Development had a key to the house. He also ordered her to remove language about the outcome of a suit for nonpayment brought against her by Dietz. On December 26, 2012, the ACLU of Virginia filed a petition for review in the Supreme Court of Virginia, arguing that the injunction constituted a prior restraint in violation of the First Amendment. On December 28, 2012, the Supreme Court reversed the injunction.

Cohen Fund for Religious Liberties Endowed

The ACLU Foundation of Virginia was pleased to accept contributions in honor of former ACLU of Virginia Board member and pioneering broadcast engineer Jules Cohen that will endow the Jules Cohen Fund for Religious Liberty. Jules Cohen was an ardent supporter of the ACLU for more than 50 years, but the true turning point in his support for the organization came when the ACLU took its unpopular and principled stance in favor of the right of the Nazi marchers in Skokie, Illinois. When others were turning away, Jules Cohen turned toward the ACLU and became an even stronger supporter. The ACLU of Virginia is pleased to be able to honor his memory and contributions in this way and is deeply grateful for the Cohen family's generous gift to establish the endowment.

Federal Court Says Pittsylvania County Violated Citizen's Religious Liberty with Meeting-Opening Sectarian Prayers

In August 2011, the ACLU of Virginia was notified that the Board of Supervisors in Pittsylvania County began each meeting with a Christian prayer, delivered by Board members on a rotating basis. The ACLU of Virginia wrote a letter to the Board explaining that this practice violated the First Amendment under the clear precedents of the United States Court of Appeals for the Fourth Circuit, which state that government bodies must not engage in official sectarian prayers. After the Board made clear that it would continue holding sectarian prayers, the ACLU of Virginia filed suit in federal court. After failed mediation attempts, in March 2013 a Federal District Court Judge ruled that the Pittsylvania County Board of Supervisors violated the First Amendment rights of ACLU of Virginia's client by opening meetings with prayers that favored one set of religious beliefs over others.

