ACLU OF MICHIGAN LEGAL DOCKET – 2007-2008

VOTING RIGHTS

ACLU Lawsuit Restores 5500 Voters to the Rolls – In an important voting rights victory, the U.S. Court of Appeals ruled in October 2008 that Michigan had unlawfully purged voters from the voter rolls. As a result, 5500 Michigan residents were restored to the voting rolls and able to vote in the historic presidential election. The ACLU lawsuit charged that the state was violating the National Voter Registration Act when it prematurely removed voters from the rolls in two circumstances: (1) when voter identification cards were returned as undeliverable, and (2) when Michigan voters obtained drivers licenses in other states. U.S. District Court Judge Stephen Murphy agreed with the ACLU that there are many legitimate reasons why voter ID cards might be returned as undeliverable and that a person may be a resident of Michigan for voting purposes, yet have an out-of-state license. On October 14, Judge Murphy issued a preliminary injunction on the issue of undeliverable voter ID cards and the U.S. Court of Appeals affirmed two weeks later. The ACLU is working on the case with the Advancement Project. (United States Student Association and ACLU of Michigan v. Land; ACLU of Michigan Cooperating Attorneys Matthew Lund, Mary Deon and Deborah Kovsky-Apap, National ACLU Attorneys Meredith Bell-Platt and Neil Bradley, and Advancement Project Attorney Bradley Heard).

Successful Challenge to Michigan Primary Law – Unlike past years, those who wanted to vote in this year's primary election in Michigan were required to declare a preference for a party before being permitted to vote. Under Michigan's controversial primary election law, the valuable information about voters' party preference was available to only the two major political parties. Not only was the party preference list not available to minor parties or journalists, but it was actually a crime for anyone but the two major parties to gain access to the information. This spring the ACLU successfully challenged the law in a federal lawsuit on behalf of the Green Party, the Reform Party, the Metro Times and a political consulting firm. (Green Party v. Land; Cooperating Attorneys: Thomas Wieder and Stephen Wasinger).

Opposing the Photo ID Requirement – In 1996, Governor Engler signed a law requiring voters to show photo ID before voting. The law was never enforced because then Attorney General Frank Kelley issued an opinion that the law was an undue burden on the right to vote. In 2006, the Michigan legislature again passed a picture ID law and asked the Michigan Supreme Court to issue an "advisory opinion" on the law's constitutionality with the hope that the Supreme Court decision would trump the attorney general's opinion. The ACLU joined the Detroit NAACP and numerous other civil rights groups and filed a friend-of-the-court brief urging the Supreme Court to strike down the new picture ID requirement. The brief pointed out that there is no evidence of significant voter fraud in the state and that an ID requirement would impose a disproportionate burden on people of color, people with disabilities and seniors. Nonetheless, the Michigan

Supreme Court upheld the law in July 2007, stressing that people without picture ID could vote by filling out an affidavit. (In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71; Attorney Melvin Butch Hollowell).

Lessening the Impact of the Photo ID Requirement -- In August 2007, after the picture ID law was upheld, the ACLU sent a letter to the Bureau of Elections recommending rules to implement the law in a manner that would impose the least possible burden on the fundamental right to vote. The Bureau adopted most of the recommendations, including the recommendations (1) to print the affidavit form on the back side of the voter application form for those who don't bring ID to the polls; (2) to allow people to vote by signing the affidavit not only if they do not own photo ID, but also if they did not bring ID to the polls; and (3) to allow student ID and all government ID to be used as a form of photo ID under the new law. (ACLU Legal Director Michael J. Steinberg).

Voter Education -- The ACLU worked hard before the 2008 elections to counter the misperception that voters must show photo ID to vote. When local clerks, like the Clerk for Allen Park, sent out misleading information about photo ID, we immediately sent him a letter and issued a press release to educate the public that Michigan voters may vote without photo ID by simply signing the affidavit form. Thousands of ACLU Voter Empowerment Cards were distributed throughout the state containing information about photo ID and other critical voter information including eligibility to vote, student voting, voting early and voting on Election Day. (ACLU Attorney Bryan Sells).

Keeping the Buena Vista Township Secretary of State Office Open -- In 2007, the ACLU and the NAACP sent a letter to the Department of Justice urging it to deny "preclearance" for closing the Secretary of State office in Buena Vista Township in Saginaw County. Buena Vista is one of the two townships in the state where changes affecting voting cannot be implemented until the DOJ certifies that the new rule will not negatively impact racial and language minorities. In December 2007 the DOJ agreed with the ACLU and NAACP that closing the office would not only make it more difficult for minorities to register to vote, but it would also make it more difficult for minorities to comply with the new photo ID requirement. (Attorney Cooperating Attorney Jocelyn Benson).

Student Voting -- Several years ago, the Michigan legislature passed what became known as the "Mike Rogers for Congress Bill," which required that the address on one's voter registration card match the address on one's Michigan license. In past elections, the law -- which was upheld by a federal judge in an ACLU lawsuit -- created much confusion for students (including students in Mike Roger's district). While most students wanted to vote in their campus town, they also wanted their Michigan driver's license to reflect their hometown address because they moved every year and did not want to change their license every year. This year we developed an interactive, how-to website for college students called, "Student Voting Made Easy" to clear up

the confusion, encourage students to vote and dispel some myths about the law. See www.aclumich.org/studentvoting. (ACLU Attorney Michael J. Steinberg).

Voter Protection – The Western Michigan Branch of the ACLU organized a voter protection program to protect the right to vote on Election Day in 25 predominantly African American and Latino precincts in Grand Rapids. ACLU attorneys provided legal support to several hundred volunteers affiliated with the Michigan Election Coalition, a nonpartisan statewide group that includes the ACLU. The attorneys helped solve problems at the polls and assisted election officials when challengers tried to prevent individuals from voting based on the new photo ID law and other invalid reasons.

POST 9/11 CASES

Wiretapping Americans Without Warrants – In perhaps the most important civil liberties case in the nation, the Michigan ACLU and the National ACLU challenged the Bush Administration program of monitoring the international phone and email conversations of Americans without court approval. In August 2006, U.S. District Court Judge Ann Diggs Taylor issued a powerful ruling holding that the program violates Americans' rights to free speech and privacy under the First and Fourth Amendments of the Constitution. She also held that the program violates the Foreign Intelligence Surveillance Act (FISA) which requires the executive branch to obtain a warrant when engaging in any electronic surveillance of Americans. Judge Taylor rejected the Bush Administration's argument that it has "inherent" power to ignore the constitution or FISA, writing that "there are no hereditary Kings in America and no powers not created by the Constitution." Judge Taylor also rejected the government's argument that the case could not proceed because of state secrets, saying that facts about NSA wiretapping have already been conceded by the government. Unfortunately, the U.S. Court of Appeals, in a 2-1 decision, reversed Judge Taylor in July 2007. The majority held that our clients could not challenge the wiretapping program because, while they had good reason to believe that they have been wiretapped, they could not prove it and the documents they needed to prove it were state secrets. In 2008, the U.S. Supreme Court denied our petition to hear the case. (ACLU v. NSA; Attorneys: Ann Beeson, Jameel Jaffer, Melissa Goodman and Kary Moss).

Harassment of Arab-Americans at the Border – Since November of 2002, Dr. Elie Ramzi Khoury, a 68-year-old naturalized American citizen, and his wife, Farideh, have been detained seven separate times when returning to this country from vacations in Europe, South America and Canada. Although permitted to fly without any restrictions, they have been detained for numerous hours upon return to the U.S., separated from their grandchildren, interrogated like terrorists and forced to urinate in front of government officials. In June 2006, the Khourys and the ACLU of Michigan joined a national class action filed in Chicago challenging the repeated harassment of individuals who are cleared of terrorist ties during the first detention and should not be repeatedly subjected to humiliation and harassment on subsequent flights. In June 2008, the U.S. Court of Appeals reversed the district court order granting class certification and sent the

case back to the district court to determine the merits of the claims by the named plaintiffs. (Rahman, et al. v. Chertoff, et al.; Michigan ACLU Cooperating Attorney: Noel J. Saleh).

Phone Companies Voluntarily Give All Customers' Records to Government – In May 2006, USA Today revealed that certain telecommunications companies, including AT&T and Verizon, were voluntarily providing information to the NSA about millions of Americans' phone calls such as the number called, time of call and length of call. In June 2006, the ACLU filed a consumer fraud complaint against AT&T and Verizon with the Michigan Public Service Commission, charging that they violated the privacy provisions of their customer contracts, which bar disclosure of such information without a warrant or subpoena. The ACLU won two motions to dismiss their complaints, but then the judge ruled that because of national security issues, the phone companies did not have to reveal whether they voluntarily handed over private information to the National Security Administration. In 2007, the ACLU dismissed its case without prejudice and will re-file if the courts in California considering "multi-district litigation" decide that the phone companies cannot hide their practices. (In the Matter of ACLU of Michigan; Cooperating Attorney: Thomas Wieder).

FREEDOM OF SPEECH

Minister Sent to Prison for Criticizing Judge -- Reverend Edward Pinkney is an activist from Benton Harbor who for years has spoken out against the discriminatory treatment of African Americans in Berrien County courts. Recently, Rev. Pinkney was charged with election law violations and convicted by an all white jury. While on probation pending a motion for a new trial, he wrote an article for a small Chicago newspaper about his case in which he severely criticized the judge that presided over the case as being racist, dumb and corrupt. Paraphrasing Deuteronomy, Rev. Pinkney also predicted in the article that unless the judge changed his ways, God would "smite" the judge with "consumption," "fever," "inflammation" and "burning." Based solely on the newspaper article, the judge found that Rev. Pinkney violated the terms of his probation and another judge sentenced him to 3-10 years in prison. The ACLU is representing Rev. Pinkney on the appeal. We argue that a judge cannot punish a person for writing an article critical of the court, even if he uses strong language. We also argue that Rev. Pinkney's prediction of what God might do to a judge cannot be construed as a "true threat." In December 2008, the Michigan Court of Appeals granted the ACLU's motion for bond pending appeal so Rev. Pinkney will be released from prison while the court considers his free speech arguments. (People v. Pinkney; Cooperating Attorneys James Walsh and Rebecca O'Reilly of Bodman, LLP and ACLU Staff Attorney Daniel Korobkin).

Honk if You Don't Support Bush's Policies – For more than 3-1/2 years, peace activists have protested the Iraq War for one hour a week on the sidewalk at the corner of Woodward and Nine Mile in Ferndale. When the police asked them to stop holding signs encouraging people to honk for peace, Nancy Goedert and Victor Kitilla held signs that read, "Ferndale Cops Say Don't Honk if you Want Bush Out" and "Police Say Don't Honk for Peace." The police charged both with the

crime of disturbing the peace for inciting honking and issued citations to those who honked. The ACLU, with the National Lawyers Guild, wrote the Ferndale City Attorney explaining that both the honkers and the "honkees" had a First Amendment right to express their displeasure for the war and honking at sidewalk protests is a time-honored and constitutionally protected tradition. While Ferndale agreed to dismiss the charges against Goedert and Kittila for displaying, "Don't Honk" signs, it said that they will be prosecuted if they encourage honking in the future. It further suggested that Goedert, who is part of the "raging grannies," and Kittila should bring a federal lawsuit if they wanted to challenge the policy. A federal suit was filed and after numerous months of litigation, Judge Denise Page Hood struck down the Ferndale policy as an unconstitutional infringement on protestors' free speech rights in April 2008. A petition for attorneys' fees is pending. (Goedert v. Ferndale; Cooperating Attorneys: Thomas Cavalier and Melanie Stothers with assistance from ACLU Law Intern Rachel Simmons).

Flint Police Department Gag Rule Challenged -- After union leaders in the Flint Police Department answered reporters' questions about some extremely controversial appointments within the Department, Interim Police Chief David Dicks issued an absolute ban barring police personnel from speaking to the media. Chief Dicks then disciplined two union officials under the new rule, firing one of them. The ACLU filed a federal lawsuit in October 2008 arguing that police officers do not forfeit their First Amendment rights when they join the police department and may speak out publicly on certain matters of public concern. A couple of days before the hearing on the ACLU motion for preliminary injunction, the police department changed its unconstitutional rule. (Gaspar v. City of Flint; Cooperating Attorneys: Gregory Gibbs, Sarah Zearfoss, Jeanmarie Miller and Muna Jondy).

Ann Arbor Film Festival Censored – Until 2006, the state of Michigan had provided arts funding to the Ann Arbor Film Festival, a world-renowned experimental film festival, for about ten years. Then, in response to complaints about some sexually themed films, the state refused to disburse money that had already been appropriated. The films included "Booby Girl," a three minute cartoon, which tells the story of a girl who had always wanted an ample chest but came to regret it and "Chests," a short that features two shirtless men bumping chests in the fashion of athletes celebrating. In March 2007, the ACLU filed a lawsuit, asserting that the state cannot withdraw funding simply because it finds some films objectionable. The Michigan legislature responded to the lawsuit in October 2007 by adopting the guidelines used by the National Endowment for the Arts, which have been upheld as constitutional. (Ann Arbor Film Festival v. Anderson; Attorneys: James Walsh, Alicia Chambers and Susan Kornfield).

No Protest --Zone Successfully Challenged. David Brooks, a retired engineer, wanted to protest the environmental policies of former Interior Secretary Gail Norton who was speaking at a celebration of a new wildlife refuge at Lake Eerie Metro Park. Mr. Brooks silently stood on a sidewalk in the park behind the seated audiences with a sign that said, "There is No Refuge if You Can't Drink the Water or Breath the Air." The park police refused to allow Brooks to stand

there and, upon threat of arrest, told him if he wanted to protest, he had to protest in a part of the park nearly two miles from where the event was held. In August, 2007, the case was settled when park officials agreed to a free speech policy permitting peaceful protest anywhere in the park. Under the new policy, a permit is not needed to protest and the only time organizers must inform park officials in advance of a protest is when there will be more than 75 participants. (Brooks v. Huron-Clinton Metropolitan Authority; Cooperating Attorneys: Diane Akers and Thomas Bruetsch).

Political Yard Signs Supporting Political Candidates – In October 2006 the ACLU filed a lawsuit against the City of Fenton on behalf of a resident who was ordered by the city to remove his political sign supporting Dick DeVos for Governor. Although the Fenton sign ordinance allowed commercial signs in the same area as large as 32-square-feet, it forbade political signs more than 4 square feet. Federal Judge Marianne Battani granted the ACLU's motion for a temporary restraining order, finding that the ordinance likely violates the resident's free speech rights. The case settled in June 2007 when Fenton amended its ordinance. (Hood v. City of Fenton; Cooperating Attorney: Gregory Gibbs).

Similarly, in September 2008, an artist was ordered by Bath Township officials to take down his "Obama for President" sign because it exceeded 6 square feet – even though the sign ordinance permitted real estate and construction signs could be much larger. After the Lansing Area ACLU sent a letter on behalf of the artist to the township attorney, the attorney agreed that the ordinance was unconstitutional and said that the artist could put the sign back up. (ACLU Cooperating Attorney William Fleener).

Paying to Protest – Following the Israeli invasion of Lebanon in 2006, the Congress of Arab American Organizations (CAAO) organized two demonstrations in Dearborn. Later, the City of Dearborn issued a bill to CAAO for more than $20,000 to pay for the police it dispatched to monitor the demonstration. Believing that people should not have to pay to express their political views in a democratic society, the ACLU agreed to represent CAAO. Following a meeting with the new mayor and his staff in July 2007, the City agreed to waive the charges and work with the ACLU and CAAO to develop a fair and constitutional policy. (Attorneys: William Wertheimer and Jocelyn Benson).

Free Speech Prevails in Columbia Township -- Del and Kathy Anteau erected a large sign on the lawn of their rural home in Columbia Township to protest low employment and outsourcing. The sign stated: "Buy U.S.A. Products. Give Your Neighbor a Job!" Prompted by complaints from neighbors about the message on the sign, the township ordinance enforcement officer threatened to charge the Anteaus with a fine of up to $500 fine unless they took it down. The Anteaus complied and then called the ACLU for help. In November 2007, we contacted the township's attorney and explained that, given the fact that "For Sale" signs in the neighborhood were at least as large at the Anteaus' sign, it would be unconstitutional to punish the couple for

their political speech. The attorney agreed and the couple promptly erected the sign again. (Attorney: Michael J. Steinberg with the assistance of law intern Mustafa Unlu).

Oakland County "Middle Finger" Cases – Tom Lawrence was a passenger in a car stopped at a traffic light in Pontiac when he observed what appeared to be police officers harassing a homeless person. When the officers saw that Lawrence was observing them, they directed a spot light in his eyes. When the light turned green and the car pulled into the intersection, Lawrence extended his middle finger at the officers. Ignoring several courts' holding that flipping off an officer is protected speech, the officers promptly pulled Lawrence over, arrested him, threw him in jail and charged him with disorderly conduct. In December 2006, after the ACLU worked to successfully have the charge dismissed, Lawrence filed a civil case. In January 2008, the case settled for $40,000 in damages and attorneys' fees. Similarly, after Gary Dembs was charged with disorderly conduct in Huntington Woods because he expressed his displeasure with an officer by giving him "the finger," the ACLU intervened and the charges were dismissed in December 2008. (Lawrence v. Martinez; Cooperating Attorneys: Rachel Eickemeyer, Rob Shaya, Amy Neville with assistance from law intern Sarah Cook; Huntington Woods v. Dembs; ACLU Legal Director Michael J. Steinberg).

Detroit Police Department Gag Rule Repealed – Until recently, the Detroit Police Department had a rule that barred officers from speaking to the news media about anything without prior approval from the top brass. Sergeant David Malhalab asked the ACLU for help after being suspended for speaking to a TV reporter about what he viewed as corruption in the department. The ACLU wrote a letter to Chief Ella Bully-Cummings explaining that the gag rule violated the First Amendment because it prohibited officers from speaking to the press about matters of public concern. In response to the letter, the DPD rescinded the policy. (Cooperating Attorney: Sarah Zearfoss).

Artist Jailed for Michelangelo Mural – Roseville artist Edward Stross painted a mural on the side of his studio that contained a variation of Michelangelo's "Creation of Man" from the Sistine Chapel in Rome. Because the mural included one of Eve's bare breasts and was entitled, "Love," the City of Roseville charged and convicted Stross of violating a variance provision that prohibited genitalia or lettering. Stross pointed out that breasts are not genitalia; that the restriction on lettering was intended to bar commercial advertising, not the title of his mural; and that, in any case, the restrictions were unconstitutional. Nonetheless, the judge sentenced Stross to 30 days in jail. The ACLU agreed to represent him on appeal on free speech grounds and secured his release during the appeal. In February 2008, the Michigan Court of Appeals reversed the conviction striking down the restriction on lettering. However, in September 2008, the Michigan Supreme Court reversed the Court of Appeals and remanded the case for consideration of Mr. Stross' other arguments. (City of Roseville v. Stross; Cooperating Attorneys: Mark Kriger and Carl Marlinga).

Protecting Anonymous Speech -- In Arenac County (county of the infamous "cussing canoeist" case), there is an anonymous newsletter called the "Town Crier," that purports to expose corruption and misdeeds by various local officials. After the latest edition criticized Sheriff Ron Bouldin, the Sheriff stated that the authors were violating state law for remaining anonymous. In fact, a cash reward was offered by a private citizen for information leading to the identity of those responsible for the Town Crier. The ACLU wrote a letter to the Sheriff in August 2008 reminding him that people in this country have a constitutional right to speak anonymously and anonymous speech has a rich history in this country dating back to colonist pamphlets criticizing abuse of power by the British. So far there have been no arrests. (Attorney: Michael J. Steinberg with the assistance of law intern Tom Davies).

Seeking Documents for Vincent Chin Book – Former Wayne State Law School Dean Frank Wu is writing a book about Vincent Chin, the Chinese-American man who was brutally murdered in Highland Park in the 1980's by men who blamed Chin for the loss of car manufacturing jobs in the U.S. to the Japan. Dean Wu's request to the Department of Justice for records about the federal prosecution was denied and the ACLU has appealed. (ACLU Cooperating Attorney Omar Chaudhary of Butzel Long).

REPRODUCTIVE FREEDOM

Abortion Ban Defeated – For the third time in eight years, the ACLU successfully challenged a Michigan law that would have banned the safest and most commonly performed abortions during all stages of pregnancy. In September 2005, a federal court struck down the most recent law, the "Legal Birth Definition Act," because it failed to adequately protect the health and life of women. The court further ruled that the law "creates a ban on actions at the heart of abortion procedures from the earliest stages of pregnancy, whether used to perform induced abortions or to treat pregnancy loss." The U.S. Court of Appeals agreed with the district court in a June 2007 opinion. We worked on the case with the National ACLU Reproductive Freedom Project, Planned Parenthood and the Center for Reproductive Rights. The U.S. Supreme Court denied the state's request to hear the case in January 2009. (Northland Family Planning Clinic, et al. v. Cox; ACLU Attorneys: Talcott Camp and Brigitte Amiri).

Forced Contraception – The ACLU recently received a complaint from a physician that a Genesee County judge was ordering young women in foster care to receive shots of Depo-Provera, an injected contraceptive that last for three months. According to the complaint, these shots are given over the objection of both the young women and their foster care parents. We are investigating. (Cooperating Attorney Gregory Gibbs and ACLU Staff Attorney Jessie Rossman).

RACIAL JUSTICE

Fighting to Save Affirmative Action – A coalition of civil rights organizations, led by the ACLU, filed a federal lawsuit in December 2006 to preserve affirmative action in university admissions in the wake of Proposal 2. The ACLU represents 19 African American, Latino,

Native American and white applicants, current students and faculty who want to ensure that they are able to learn and teach within a diverse environment. We argue that the initiative violates equal protection by making it more difficult for people of color to affect the admission process than nearly any other group. In other words, nearly any group wanting a characteristic to be considered as a plus factor in U-M admissions – whether it be legacy status, athletic ability or having a home in an obscure part of the state – need only lobby the University. In contrast, in order for underrepresented racial minorities to urge the University to employ affirmative action, they must first amend the Michigan Constitution through a ballot initiative. The U.S. Supreme Court has struck down similar voter initiatives that make it more difficult for people of color and for the gay community to seek change than others. Unfortunately, in March 2008 the district court rejected our claims and dismissed the case. A motion for reconsideration is pending and we will appeal if necessary. (Cantrell, et al. v. Granholm.; Attorneys (partial list): Mark Rosenbaum, Kary Moss, Catherine Lhamon, Mark Fancher, Dennis Parker (ACLU), Melvin Butch Howell (NAACP Detroit), Victor Bolden and Anurima Bhargava (NAACP Legal Defense Fund), Jerome Watson (NAACP State Conference) Karen DeMasi (Cravath Swaine & Moore), Professor Erwin Chemerinsky and Professor Lawrence Tribe).

Racist Mob Violence – A young black man was invited to a wedding in Tuscola County by the bride, an acquaintance from high school. He was confronted in the parking lot of the reception hall by the groom and several others who challenged his right to enter. They used racial epithets and ultimately descended upon him with blows and a continuing torrent of racial language. When he was finally rescued from the attack by others at the reception, his efforts to report the crime and have his assailants arrested were frustrated by an indifferent law enforcement officer. The ACLU of Michigan intervened on the victim's behalf and helped him demand a full investigation of both the mob attack and the officer's malfeasance. An internal affairs investigation of the officer is underway. Upon completion of the investigation of the mob attack, the ACLU of Michigan conferred with the prosecutor and confirmed that the assailants will be zealously prosecuted. (ACLU Attorney Mark Fancher).

Racism in the Classroom – Black fourth grade students contend that their music teacher singled them out to play the roles of slaves in a classroom skit. They were directed to simulate the harvest of cotton while on their knees and as white students pretended to be slave masters beating them. Actual contact was made during what was supposed to be simulated beatings. The teacher also made physical contact with one of the students and caused injury. The teacher declared that the African slaves were "stupid." The school's investigation concluded that the incident never happened. The ACLU of Michigan has commenced discussions with the school district's attorneys, and is weighing the prospects of litigation. (ACLU Attorney Mark Fancher).

Racially Hostile Educational Environment – Two black siblings (brother and sister) who were students at East Detroit High School in Eastpointe daily encountered racial epithets and catcalls by white students. Reports to school officials did not result in an abatement of the harassment.

Brewing hostility eventually erupted in a racially charged physical attack on the siblings by five white students. The ACLU of Michigan represented the siblings in school district proceedings and in proceeding in the Michigan Department of Civil Rights. Prospects for litigation are being considered. (Turner v. East Detroit High School. ACLU Attorney Mark Fancher)

School to Prison Pipeline Cases – In cooperation with the Student Advocacy Center of Michigan, the ACLU of Michigan has provided counseling and advocacy for suspended and expelled students of color who were – or who are – at risk of entanglement in the criminal justice system. These students were suspended or expelled on highly questionable grounds. In one case, the school deliberately failed to comply with state and federal requirements to evaluate the child for disabilities before expulsion. Consultation with that student and his family about possible future action is ongoing.

Strip Searching Students – A Native American high school girl was accused of possession of marijuana. When she denied the allegations in the principal's office, a female security guard escorted her into a restroom stall and after a pat-down, demanded that the girl lift her shirt. The guard then pulled back the girl's bra to examine her breast area. She was then instructed to lower her pants to the mid-thigh region. The outer surface of the girl's underwear was examined. When no drugs were found, the traumatized girl was told to return to class. At no time was her mother called by school officials. When the ACLU of Michigan confronted school officials, it became immediately evident that the issue of whether school officials had the requisite cause to conduct the search was highly contested. The ACLU of Michigan is in the process of negotiating a new policy for the school that will hopefully prohibit strip searches of students except in those cases when there is probable cause to believe that a student has an item that presents an imminent danger and circumstances are such that it is too dangerous to wait for law enforcement officials to arrive to search the student. (ACLU Staff Attorney Mark Fancher and Cooperating Attorney Sandhya Bathija).

SEX DISCRIMINATION

DPD Pregnancy Discrimination – In October 2008, the ACLU of Michigan filed a pregnancy discrimination case against the Detroit Police Department on behalf of five women police officers alleging violations of Title VII of the 1964 Civil Rights Act and the Equal Protection Clause. The DPD has a practice of forcing women police officers to go on sick leave as soon as they become pregnant even though the women are perfectly capable of working -- either on patrol or in a light-duty job. One client was forced to go on sick leave even though she had been working a desk job for five years when she became pregnant. Another client was forced to go on welfare when her sick leave was used up. The lawsuit further alleges that the light-duty policy of the department has a disparate impact on women. (Prater v. City of Detroit. Cooperating Attorneys Deborah Gordon, Sarah Prescott, Sharon Dolente and Staff Attorney Jessie Rossman).

Domestic Violence Eviction Case Settled – Tanica Lewis, a mother of two, obtained a personal

protection order (PPO) against her abusive former boyfriend and informed her landlord of the PPO. Nonetheless, the ex-boyfriend broke into her home when she was away. The landlord then victimized Ms. Lewis a second time by evicting her and her children from the apartment because she was a victim of domestic violence. They were forced to live in a shelter. In 2007 the ACLU filed a lawsuit alleging sex discrimination under the Fair Housing Act. A year later a groundbreaking settlement was reached where the rental property company agreed not to evict or discriminate against tenants because they have been the victims of domestic violence, dating violence, sexual assault or stalking -- whether or not the abuser is residing in the tenant's household. The property management company will also offer early lease termination and relocation to tenants who have been the victims of such abuse and need to leave their homes to ensure their safety. (Lewis v. North End Village, Inc.; ACLU Attorneys Sandra Park and Emily Martin).

Ensuring Integrated Schools – The ACLU opposes public schools that segregate students by race and by sex. We believe that single-sex schools, similar to single-race schools, not only violate students' right to equal protection of the law, but also perpetuate negative stereotypes. Research clearly shows that students in single-sex schools are more likely to embrace damaging gender stereotypes about the opposite sex than those in integrated schools. In the summer of 2005, when the Detroit Schools announced its intention to become the only public school district in the state to create all-male and all-female high schools, the Detroit ACLU met with the administration and urged the district to create small coed schools, not illegal gender-segregated schools. The administration reluctantly agreed to keep the two new schools integrated. However, in 2006, the state legislature amended the state civil rights act to permit single-sex schools but only if the same class is offered to both girls and boys and if the class is also offered in a coed setting. In 2008, the ACLU filed a Freedom of Information Act request of the schools that segregate schools or classes by gender to ensure that schools are complying with the new law and we will consider litigation if we receive complaints.

Stripping Inmates of Civil Rights Protection – In 2000, Michigan took the drastic and unprecedented step of amending its civil rights law so that prisoners no longer were protected from discrimination based on sex, race, religion or disability. In August 2006, the ACLU filed a friend-of-the-court brief in a sex discrimination case on behalf of a class of women prisoners who were victims of sexual abuse and harassment. The ACLU argued that Michigan had deprived prisoners of equal protection by singling them out and depriving them of remedies for discrimination under state law. In a precedent-setting opinion issued in January 2007, U.S. District Court Judge John Corbett O'Meara agreed with the ACLU and struck down the law. (Mason v. Granhol;, Cooperating Attorney: Bryan Anderson).

Sex Discrimination and Name Changes – Stephanie Pierce and Timothy Morill called the ACLU shortly before their wedding in June 2007. Timothy wanted to adopt Stephanie's last name when they were married. However, staff at the Kent County Clerk's Office and Kent

County Probate Court told them that it was much more difficult for men than women to change their names upon getting married. They were told that while a bride need only sign the man's last name on the marriage certificate to legally change her name, a groom was required to go through an elaborate and expensive process of petitioning the probate court and publishing notice in the newspapers of his intention to change his name. The ACLU intervened and Timothy was able to adopt Stephanie's surname by simply signing it on their marriage license. (Attorney: Michael J. Steinberg with the assistance of ACLU law intern Anya Pavlov-Shapiro).

PROTECTION AGAINST UNREASONABLE SEARCHES AND SEIZURES

Illegal Cavity Searches in SW Detroit – During the summer of 2006, two Detroit police officers were stopping men in Southwest Detroit who they suspected of drug activity and, without a warrant, cavity searched them on the street. After an extensive investigation, the ACLU sued the city in March 2007 on behalf of an army veteran who had nothing to do with drugs. The two officers were using this illegal technique so often that many residents thought it was permissible. Despite the publicity that this issue has drawn, the two officers are still on the street and one was promoted. Trial is scheduled for 2008. (Ware v. City of Detroit; Attorneys: Michael Pitt, Melissa El, Mark Fancher and Kevin Carlson).

Stopping Unconstitutional Breathalyzers of Young Adults – In 2003, the ACLU of Michigan successfully sued Bay City on behalf of a 20-year-old rollerblader who, even though she was not drinking, was threatened with a civil infraction under a local Minor in Possession ordinance if she did not submit to a breath test. Despite sending letters to city attorneys across the state alerting them to the Bay City ruling, many police agencies – including the Michigan State Police – continued to violate young people's rights. In August 2005 the ACLU filed a lawsuit challenging a state law that is identical to the Bay City ordinance, suing the State of Michigan, Thomas Township, Saginaw County, Central Michigan University, Mt. Pleasant and Isabella County. In September 2007, Judge David Lawson, in an opinion that will affect hundreds of young adults and teens across the state, held that the provision of the state law that required pedestrians to submit to a PBT violated the right to be free from searches without a search warrant. (Platte, et al. v. Thomas Township, et al.; Cooperating Attorneys: Marshall Widick, William Street and David Moran).

Flint Fashion Police – Interim Flint Police Chief David Dicks announced in June that the Flint police were going to start charging individuals wearing "saggy pants" with indecent exposure. Chief Dicks, in a Detroit Free Press video, demonstrated that he would apply his new rule to young men whose boxer shorts were showing above their pants – whether or not their buttocks were exposed. He also is seen on the video stopping and searching men who, although they are wearing sagging pants, have their boxer shorts covered with a polo shirt. The ACLU wrote a letter to Chief Dicks explaining how the stops and searches are unconstitutional and how there can be no indecent exposure unless a person's genitals or buttocks are showing. Nonetheless, he has refused to retract his directive. The ACLU stands ready to represent any individual who is a

victim of Chief Dicks' new rule. (ACLU Staff Attorney Mark Fancher and Cooperating Attorney Gregory Gibbs.)

GAY, LESBIAN, BISEXUAL AND TRANSGENDER RIGHTS

Fighting to Preserve Domestic Partnership Benefits – In November 2004, much to our dismay, the voters of Michigan approved Proposal 2, a ballot initiative amending the Michigan Constitution to bar same-sex marriage "or any similar union." Throughout the campaign, the proponents of the amendment insisted that the vote was about marriage and that it would have no impact on same-sex domestic partnership benefits. However, after the election Governor Granholm said there was a "cloud" over whether such benefits were legal and said that the state would not provide health insurance to same sex partners of employees until a court ruled on the issue. The ACLU filed a lawsuit in March 2005 on behalf of 21 same-sex couples throughout the state seeking a declaration that the Marriage Amendment did not preclude employers from providing same sex benefits. In September, in a great victory for LGBT rights, an Ingham County judge agreed with the ACLU and ruled that same-sex benefits were work-related benefits unrelated to marriage. Unfortunately, in May 2008 the Michigan Supreme Court, over a well-reasoned and strongly-worded dissent, reversed. The ACLU is now working closely with universities and municipalities to help them revise the criteria of their policies in order to ensure that health benefits are continued without violating the Michigan Supreme Court's interpretation of the Marriage Amendment. (National Pride v. Granholm. Attorneys: Deborah Labelle, Mark Granzotto, Jay Kaplan, Tom Wilczak, Barbara Buchanan, Kurt Kissling, Amanda Shelton and Nancy Katz).

Health Insurance for Gay and Lesbian Families – Even before Proposal 2, the conservative Thomas More Law Center was trying to strip partners of gays and lesbians of health insurance benefits on the ground that they were somehow barred by Michigan's marriage laws. In 2004, the ACLU filed a friend-of-the-court brief on behalf of the Washtenaw Medical Society and the Women Lawyers Association of Michigan in the Michigan Court of Appeals arguing that the marriage laws, while limiting marriage to a union between a man and a woman, have absolutely nothing to do with an employer's ability to grant benefits to whomever it pleases. In April 2005, the Court of Appeals dismissed the case because the plaintiffs failed to do what they were required to do to show "standing" to sue and the Michigan Supreme Court agreed in a July 2007 opinion. (Rhode v. Ann Arbor Schools; Attorneys: Kara Jennings and Jay Kaplan).

Court Refuses to Resolve Custody Dispute between Lesbian Couple -- Diane Giancaspro and her lesbian partner jointly adopted three daughters in Illinois as is permitted under Illinois law. When they moved to Michigan the couple split up and Diane filed a motion for custody in Berrien County Family Court. The court, however, refused to resolve the custody dispute because it claimed that Michigan's "Marriage Amendment" – which bars same-sex marriage -- barred the couple from utilizing the Michigan courts to resolve custody disputes. The ACLU, working with Lambda Legal Defense Fund, is representing Diane on appeal and argues that the lower court

violated the Michigan Child Custody Act and the U.S. Constitution and that there is nothing in the Michigan Marriage Amendment that precludes a court from making custody decisions in the best interest of the children. Oral argument was held in August 2008 and we are awaiting a decision. (Giancaspro v. Congleton; ACLU Staff Attorney Jay Kaplan).

Pro-Gay Church Denied Insurance – Brotherhood Mutual Insurance Company denied a property insurance policy to the West Adrian United Community Church of Christ because of its allegedly "pro-gay" stance of supporting gay clergy and same-sex relationships. The insurance company stated that these positions presented an uninsurable risk for property damage, although no empirical or actuarial data was provided. We then filed a complaint with the Michigan Department of Civil Rights alleging religious discrimination against the church and the matter is currently being investigated. (ACLU Staff Attorney Jay Kaplan.)

RIGHT TO COUNSEL

Reforming the Broken Indigent Defense System – For decades, leaders in the state have recognized that Michigan's system of representing poor individuals accused of crimes is broken. In February 2007, the ACLU, working with its coalition partners, filed a critically important class action against the state to fix this longstanding problem. The state responded by asking the court to dismiss the case, contending that the counties, not the state, were responsible for any deficiencies in the system. In May 2007, Ingham County Circuit Judge Laura Baird rejected the state's argument. She ruled that the state is responsible for insuring constitutionally adequate criminal defense and simply because Michigan has delegated its responsibility to the counties, it is not "off the hook" when the system fails. Judge Baird also granted the ACLU's request to certify the case as a class action. The state has appealed to the Michigan Court of Appeals and oral argument will be held in December 2008. At stake is nothing less than the legitimacy of our criminal justice system. (Duncan v. Michigan; Attorneys (partial list): Frank Eaman, Julie North, Emily Chiang, Robin Dahlberg, Elizabeth Kennedy, Mark Granzotto and Mark Fancher).

Attorney-Client Visits at the Wayne County Jail – In July 2007, the ACLU received numerous complaints from attorneys that the Wayne County Jail was barring attorney-client visits except for very limited hours and only on a couple of days during the week. We also received complaints that jail personnel were denying such visits unless the attorney was the attorney "of record." Attorneys who were meeting with potential clients or witnesses or who were considering bringing a civil case on behalf of an inmate were not allowed to meet privately with inmates. After contacting the Wayne County Corporation Counsel's office, the problem was resolved.

FREEDOM OF RELIGION AND BELIEF

Religious Discrimination by Drug Court – Joe Hanas appeared in the Genesee County Drug Court on a marijuana charge. The judge gave Hanas the choice of either being convicted of a drug offense and sentenced to jail, or going to a Pentecostal drug treatment center called the Inner City Christian Outreach Program (ICCOP). He chose the treatment center. Much to his surprise,

ICCOP officials insisted that Hanas, who is Catholic, give up his rosaries and refrain from seeing a priest because they claimed that Catholicism is witchcraft. The officials also demanded that he participate in Bible readings, faith healing and daily church services where residents spoke in tongues. When Hanas' attorney asked the drug court judge to move Hanas to a secular drug treatment program, the judge declared that Hanas failed the program and proceeded to convict him and sentence him to boot camp. After the ACLU publicized the treatment individuals receive at ICCOP, the drug court stopped sending people there. The ACLU asked the Michigan appellate courts and the U.S. Supreme Court to reverse Hanas' conviction, but each of the courts have declined to hear the case. In 2006, we filed a habeas corpus petition in U.S. District Court and a civil lawsuit Mr. Hanas' behalf. In February 2008, Judge Arthur Tarnow issued a published opinion finding that Hanas' rights under the Free Exercise Clause and the Establishment Clause were violated. The county then settled the civil case for $100,000 in damages and attorney fees and the state agreed to erase the conviction from Mr. Hanas' record. People v. Hanas and Hanas v. Inner City Christian Outreach, Inc;. Cooperating Attorneys: Andrew Nickelhoff, Greg Gibbs, Glenn Simmington, Erwin Chemerinsky and Frank Ravitch).

Devout Student Suspended for Long Hair -- Claudius Benson is a ninth grader at Old Redford Academy, a public charter school in Detroit. He and his mother maintain a sincerely held religious belief based on a verse in Leviticus that he is forbidden to cut his hair. Despite the religious basis for his long hair, ORA suspended him and referred him for expulsion for violating its "closely cropped" hair policy. In October 2007, the ACLU filed a lawsuit in Wayne County Circuit Court against ORA for violating Claudius' religious freedom rights under the Michigan and U.S. Constitutions and the Michigan Civil Rights Act. The judge issued an injunction ordering the school to let Claudius come back to school. (Benson v. Old Redford Academy; Attorney: Mark Fancher).

ACLU Addresses Religious Shrine in Warren Courtroom – In 2007, the Metropolitan Detroit ACLU Branch wrote a letter to a Warren District Court judge asking him to remove the myriad religious symbols displayed in his courtroom, including a cross and religious prints. The letter explained that judges cannot promote religion over non-religion or one religion over another in a courtroom. The display was removed shortly after the letter was sent. (Cooperating Attorney: Heather Bendure).

Religious Discrimination Against Sikhs – As an observant Sikh, Wayne State University student Sukhpreet Garcha is required to wear a "Kirpan," or a ceremonial sword in sheath, as a reminder of his solemn duty to help the needy and work for justice for all. In August 2005, Mr. Garcha was videotaping practice for the Wayne State football team when he was approached by Wayne State police officers and told that if he did not remove his Kirpan, he would be arrested. Despite his polite explanation that his faith required him to wear the Kirpan, he was charged with a violation of the Detroit knife ordinance. The ordinance bans knives more than three inches long, but makes numerous exceptions for those who use knives for "work, trade, business, sport

or recreation." However, the ordinance makes no exceptions for those who carry knives for religious purposes. The ACLU filed a friend-of-the-court brief on behalf of Mr. Garcha arguing that the city must accommodate his religious beliefs and dismiss the case. In November 2005, a Detroit judge ruled that the police violated Mr. Garcha's rights under the Michigan Constitution and dismissed the case with prejudice. Additionally, Wayne State has said that it will no longer arrest or otherwise punish Sihks wearing Kirpans as an expression of their faith. (City of Detroit v. Garcha; Cooperating Attorney: Robert Sedler).

Religious Displays in Front of Public Buildings – In December 2005, we received a complaint about the city-sponsored religious display in front of Berkley City Hall. The display consisted of a nativity scene celebrating the birth of Christ and a Star of David, the symbol of the Jewish faith. The ACLU's position is that the government must remain neutral on matters of religion. For example, it cannot prevent churches and private individuals from displaying a crèche and other religious symbols on their own property. But, by the same token, the government cannot promote one religion over another or religion over non-religion by putting unadorned religious symbols in public places. Religious leaders in the City agreed with the ACLU and in 2006, after ACLU lawyers met with city officials, the City gave the crèche and Star of David to a coalition of religious groups who will take turns displaying the symbols on church or synagogue grounds during the holiday season. In November 2007 the voters of Berkley rejected a ballot initiative that would have forced the City to display the nativity scene in front of City Hall (Cooperating attorneys: Christine Gale, Elsa Shartsis and Penny Beardslee).

Ending Tax-Funded Proselytization of Youth – In 2003, the State of Michigan stopped financing and sending children to Teen Ranch, a residential youth services program, because it was indoctrinating children using state funds. Rather than fixing the problem, Teen Ranch sued the State. The ACLU filed a friend-of-the-court brief in support of the state in the U.S. Court of Appeals. In January 2007, the court agreed with the ACLU that Michigan properly cut ties with Teen Ranch. (Teen Ranch v. Udow; ACLU Attorney: Daniel Mack).

Coach-Led Prayer – A coach in the Manistee Schools was leading Bible study meetings in his house for his team. When a student complained, the ACLU contacted the school district's attorney and the superintendent put an end to the practice. The superintendent wrote back stating that the district understood that its employees must "remain neutral in matters of religion at school" and that school personnel cannot "promote a religious practice" to students.

IMMIGRANT RIGHTS

Denying Driver's Licenses to Lawfully Present Immigrants -- In 2008, Michigan Secretary of State Terri Lynn Land stopped issuing a driver's license to anyone who was not either a U.S. citizen or "green card" holder. In doing so she violated Michigan law by denying driver's licenses to hundreds of tax-paying residents working and living in Michigan legally. In February 2008, the ACLU sued the Secretary of State on behalf of Freedom House and six Michigan

residents who have permission from the federal government to live and work in the U.S., including a Canadian nurse who lives in Muskegon, an Indian doctor in Flint, a University of Michigan language assessment specialist from Singapore, and a political refugee in Detroit who was granted asylum after being tortured for his political activity in Africa. The state responded to the lawsuit by passing legislation to make it clear that all lawful residents in Michigan are entitled to apply for driver's licenses. (Gates v. Land; ACLU Cooperating Attorneys Andrew Nickelhoff, Byan Waldman and Jocelyn Benson).

Sentenced to the Max Because of Immigration Status – In 2007 Luis Gonzalez-Mireles pled guilty to a first time offense of drunk driving in Jackson. Although the probation agent recommended a sentence of probation, Jackson District Court Judge Joseph Filip imposed the maximum sentence of 93 days in jail because Mr. Gonzalez-Mireles was not in this country legally. Apparently ignoring the fact that jail is the most expensive of the sentencing options, Judge Filip stated that he did not want the county to spend resources on illegal immigrants. The ACLU represented Mr. Gonzalez-Mireles on appeal, arguing that state judges are preempted by federal law from imposing criminal penalties for immigration violations and that the disproportionate sentence violated due process and equal protection. Jackson County Circuit Court Judge Chad Schmucker let Mr. Gonzalez-Mireles out of jail while he considered the appeal and in October 2007 reversed the sentence because it was disproportionate. Judge Schmucker sent the case back to a new judge for resentencing where Mr. Gonzalez-Mireles was sentenced to time served. (People v. Gonzalez-Mireles; Attorney: Michael J. Steinberg with the assistance of ACLU Legal Intern Anya Pavlov-Shapiro).

Denied a Public Education for Lack of a Social Security Number – We received complaints that some charter schools in the metropolitan Detroit area have been denying students who lack social security numbers admission to the school. This alleged practice, if true, would violate both the Privacy Act of 1974 and the equal protection rights of innocent children of undocumented workers. In the winter of 2008 the ACLU sent a letter to the schools requesting that they halt the practice and train their admissions staff properly. We promptly received a return letter from the charter schools stating that it would not happen again. (Attorney: Sandhya Bathija).

Denied the Right to Marry – The county clerks in a few isolated counties such as Kent and Ottawa are refusing to issue marriage licenses to couples unless both the bride and groom have social security numbers. These clerks claim that they are abiding by federal and state law even though federal and state authorities state that those without social security numbers may get married. The ACLU is working on a strategy with the Catholic diocese to address this problem.) (Cooperating Attorney: Daniel Schiffer).

DRUG POLICY

Arrested and Strip-Searched for Going to a Bar – The ACLU provided direct representation in the criminal cases of 93 young men and women who were arrested, strip-searched and/or

cavity-searched by the police at a licensed Flint dance club in 2005. Although all the ACLU clients were drug free, they were arrested because some other patrons in the bar possessed drugs. They were each charged with "frequenting a drug house." The police admitted to strip searching all patrons in the bar whether or not they had drugs. Many of our clients also reported that they were cavity searched and one woman said that an officer did not change her latex glove in between searching her anus and her vagina. After many months and two appeals, the criminal charges were dismissed on the ground that the police lacked probable cause to believe that our clients had violated the law. In March 2007, the ACLU filed a civil suit in federal court on behalf of dozens of patrons. The case is in the middle of discovery. (City of Flint v. Doyle, et al;. Cooperating Attorneys: Ken Mogill, Elizabeth Jacobs, Gregory Gibbs, Jeanmarie Miller, Glenn Simmington, Dean Yeotis, Chris Pianto, Daniel Bremer, Matthew Abel and Michael Segesta; Thompson v. City of Flint; Cooperating Attorneys: Michael and Peggy Pitt, Maureen Crane, Lauri Ellias, Ken Mogill, Elizabeth Jacobs, Greg Gibbs and Jeanmarie Miller).

Wayne County Community College Denies Right to Petition for Medical Marijuana -- In October 2007, a WCCC student named Jim Hickey was petitioning on campus to put the medical marijuana ballot initiative on the November 2008 ballot. An officer approached him and told him he could not petition on campus without a permit. While Hickey eventually obtained a permit for the downriver campus, the central campus administration refused to permit him to petition there. After Hickey sought help from the ACLU, we learned that there were no written policies about petitioning or free speech and there was much confusion about who, if anyone, issued permits and the criteria for granting permits. The ACLU wrote a letter to the WCCC administration stating that small groups of students should not be required to seek permission to petition, hand out flyers or engage in protest on campus and if the college was going to impose reasonable time, place and manner limits on free speech, it must develop written guidelines that are available to students. (Attorney: Sandhya Bathija).

DUE PROCESS

Successful Challenge to Detroit's Pre-Employment Residency Requirement -- In 1990, the law firm of Sachs Waldman and the ACLU filed a federal class action lawsuit challenging a Detroit rule barring people from applying for a job with the Detroit Police Department unless they were Detroit residents ¬ before they applied. The court ruled that pre-employment residency requirements violated the right to travel, and after years of hard work, the case finally ended in 2008. The class of would-be employees has been awarded more than $5 million in damages. (Grace v. City of Detroit; Cooperating Attorneys: John Runyon and Marshall Widick of Sachs Waldman).

Youthful Offenders on the Sex Offender Registry – In Michigan, like most states, teen lovers who engage in forms of consensual sex can be convicted as sex offenders if one or both of the teens are not yet 16 years old. However, in Michigan, unlike most states, convicted "Romeo and Juliet" teens are also placed on the Internet-based sex offender registry for 25 years -- thus

destroying many of their job, housing and educational opportunities. In order to address this great injustice, the Michigan legislature amended the registry so that Romeo and Juliet offenders do not have to register if they were convicted after October 1, 2004. However, there are dozens of youths who were convicted before that date who are suffering. The ACLU filed a brief in the U.S. Court of Appeals arguing that it violates the equal protection and due process rights of these youths to treat them differently than those convicted after 2004. In July 2007, the appeals court held that while the treatment of these young people was unfair, it did not violate the Constitution. (Doe v. Sturdivant; Cooperating attorneys Miriam Aukerman and Susanna Peters).

STUDENT RIGHTS

Stripped of their Rights – We represented eight Whitmore Lake High School students in a suit against the Whitmore Lake School District. In the spring of 2000, school officials strip-searched all members of a gym class in an unsuccessful attempt to find money that was reported stolen. The boys were forced to pull down their pants and underwear while they were examined by a teacher. The girls were forced to stand in a circle and pull up their shirts and pull down their shorts. In June 2003, a federal judge in Detroit ruled that school officials, but not the school district, could be sued for money by the students. In April 2005 the U.S. Court of Appeals held that while the school officials violated the students' rights, they were "immune" from a lawsuit for damages. In June 2007, the Court of Appeals held that the school district was not liable even though the staff did not conduct any training about district's no-strip-search rule. (Beard v. Whitmore Lake School District; ACLU Cooperating Attorneys Matthew Krichbaum and Richard Soble).

Big Brother at Pioneer High School -- During the winter of 2008, the ACLU supported a tremendous group of student leaders at Pioneer High School in Ann Arbor who campaigned to stop the installation of over 50 surveillance cameras throughout their high school. Even though approximately half the student body signed petitions against the cameras, and even though advocates of the camera could not show that the cameras would make the school safer, the school board voted to install cameras in a split decision. Then the Pioneer administration denied the student organization, Pioneers Students Against Surveillance (PSAS), recognition as a student club because they advocate a policy change not advocated by the administration. The ACLU wrote a letter to the superintendent on behalf of PSAS stating that PSAS was entitled to all the same privileges as the numerous other student organizations on campus. The superintendent wrote back the same day to say that PSAS would be recognized as a student club. (ACLU Attorney Michael J. Steinberg).

Suspended for Hair Length – Rodell Jefferson, III is a 10-year-old honor student at Old Redford Academy, a public charter school in Detroit. In May 2007, Rodell was suspended and referred for expulsion because the principal believed that his hair violated the "closely cropped" school rule. Rodell's hair was no longer than ¾ of an inch. The ACLU sued to prevent the expulsion and, after a hearing on a motion for an injunction, the school permitted him to return

and cleared his school records of the incident. (Jefferson v. Old Redford Academy; Staff Attorney Mark Fancher).

Mass Searches at School – In January 2008, after a Southfield Lathrup High School student reported her wallet missing, security personnel came into the classroom and without suspicion that any individual had stolen the wallet, frisked each of the approximately 30 students in the class. The wallet was not found. The ACLU has written to the school to seek assurance that the school will not violate the privacy rights of students in the future by conducting mass bodily frisks without individualized suspicion. (Cooperating Attorney Elsa Shartsis).

Punished in School for Facebook Joke about Teacher – A senior at West Bloomfield High School called the ACLU in 2008 after he was suspended for an offensive comment he had made about a teacher on his Facebook page. The student's page was set to "private" and he had only intended to share the comment with friends, but someone forwarded the message to the school administration. The ACLU contacted the school district to protest the high school's attempt to regulate off-campus student speech. (Attorney: Christine Gale with help from Oakland County ACLU President Dick Lobenthal).

PRISONER RIGHTS

U.S. Supreme Court Victory on Prisoner Lawsuits – Before January 2007, there were so many obstacles for Michigan inmates to overcome to get a federal judge to even look at their constitutional claims that most meritorious prisoner rights cases were being dismissed on technical grounds. For example, judges were dismissing entire lawsuits filed by ill-educated inmates representing themselves if (1) the inmates forgot to allege in the lawsuit that they had filed a prison grievance; (2) they sued more prison guards than they named in their prison grievance; or (3) they alleged more violations of the law in the lawsuit than they had in their prison grievance. The National and Michigan ACLU filed a brief in the U.S. Supreme Court and the Supreme Court, in a unanimous decision, did away with these onerous obstacles to vindicating constitutional rights. (Jones v. Bock; ACLU attorney: Elizabeth Alexander).

Victory for Prison Health Care – In a longstanding ACLU lawsuit against the Michigan Department of Corrections, a federal judge strongly criticized its failure to provide adequate health care. Judge Richard Enslen wrote in a December 2007 opinion, "A prisoner, who receives a sentence of 2-10 years, deserves 2-10 years. What he does not deserve is a de facto and unauthorized death penalty at the hands of a callous and dysfunctional health care system that regularly fails to treat life-threatening illness." The judge appointed a monitor and threatened $2 million a day in fines if the MDOC did not fill medical staff vacancies to provide basic health care to prisoners. (Hadix v. Michigan; ACLU Attorneys: Elizabeth Alexander and Patricia Streeter).

Inhumane Treatment of Inmates in the Saginaw County Jail – In March 2005, the ACLU

joined in three lawsuits against the Saginaw County Jail for the inhumane and unconstitutional treatment of female and male inmates awaiting trial. In two of the cases, detainees were stripped and held naked in a cell referred to as "the hole" where they could be viewed by jail personnel and inmates of the opposite sex. If the prisoner declined to strip on her or his own, guards forcibly removed the clothing which often included a physical blow to the body, the use of a chemical spray and the use of a scissors to cut off the clothing. In the third case, the ACLU is challenging a jail policy whereby guards routinely strip searched thousands of inmates – sometimes requiring them to strip completely in front of an opposite sex guard, raise their breasts or genitals, spread their buttocks and "squat and cough. In March 2008, the first four inmates to go to trial were awarded $145,000. Several of the remaining cases have settled since the trial, but other trials are expected during 2009. (Rose v. Saginaw County Jail; Whittum v. Saginaw County Jail and Brabant v. Saginaw County Jail. Attorneys: Steven Wassinger, Michael Pitt, Peggy Pitt and Chris Pianto).

Challenge to Treatment of Mentally Ill Youth at Michigan's "Punk Prison" – In September 2005, the ACLU joined with the Michigan Protection and Advocacy Service (MPAS) in a lawsuit challenging the manner in which the privately-run Michigan Youth Correctional Facility (MYCF) – a/k/a the "Punk Prison" – treats its mentally ill inmates. There were numerous documented problems at MYCF such as: (1) the exacerbation of young inmates' mental illnesses by placing them in long-term isolation where they were cut-off from social contact, programs or stimulation; (2) placement of youth in isolation as a result of their mental illness; (3) failure to diagnose and mis-diagnoses of mental illnesses; (4) failure to provide adequate mental heath care; and (5) failure to provide adequate special education. Shortly after the lawsuit was filed, an announcement was made that the prison was closing. The case has been put on hold until August 2009 to give the parties an opportunity to develop a plan to ensure that mentally ill youth receive proper services at their new facilities. (MPAS v. Caruso. Attorneys: Stacy Hickox and Mark Cody).

Ingham County Postcard-Only Mail Policy – There is no evidence that an Ingham County Jail inmate has successfully smuggled contraband into or out of the Ingham County Jail through the mail. Nonetheless, in the summer of 2008, the Ingham County Sheriff recently instituted a rule barring any correspondence to or from inmates in any other form than a postcard, stating that it takes too long for corrections officials to screen mail for contraband. This rule would severely limit the ability to have any meaningful correspondence with family, friends and religious counselors – people with whom inmates must maintain strong relationships if they are to successfully reintegrate into society after they are released. It would also prevent pre-trial detainees from exercising their fundamental right to vote. The ACLU met with the Sheriff and he reversed his position on outgoing mail. We are still working on the incoming mail policy. (Cooperating Attorneys: Paul Denenfeld, Carol Koenig and Edward Bladin).