ACLU Michigan

LEGAL DOCKET
FALL 2025

The ACLU of Michigan's legal docket is published annually. This year's docket summarizes the cases with activity in 2024 and 2025.

CRIMINAL LAW REFORM

Bail Reform. Tens of thousands of people in Michigan are locked up in jail, before being tried or convicted of any crime, because of cash bail. Throughout the state, it is common for judges to require people who have been arrested to post cash for their release—in other words, to buy their freedom—or else remain incarcerated while they await trial, even for very minor charges. In 2019 the ACLU filed a federal class action lawsuit against the 36th District Court in Detroit, arguing that this practice is unconstitutional because it creates a two-tiered legal system in which the freedom of a person who is presumed innocent depends entirely on their ability to afford bail, a clear violation of due process and equal protection. Locking people up while they await trial inflicts devastating harm on the lives of people who are arrested and their families, including job loss, child custody issues, eviction, and missed medical or educational commitments. This practice also coerces many defendants accused of lesser crimes to plead guilty just to get out of jail. And the harm caused by using cash bail falls disproportionately on people of color, who already bear the brunt of overpolicing and racism in the criminal legal system. In July 2022, after years of negotiations, we announced a historic settlement agreement with the 36th District Court that will overhaul the bail system in Detroit. The agreement is designed to drastically reduce pretrial detention, limiting cash bail to cases where a judge finds, based on evidence specific to a particular individual, that the individual would present a flight risk or danger to the public if released. The agreement will last between three and five years, involves regular reporting of data, and is expected to be a model for reforming bail systems in Michigan and around the country. Following a trial period, the agreement was fully implemented beginning in May 2023. Significant improvement in bail practices have already occurred, and we continue to work with the 36th District Court to reduce pretrial detention in Detroit. During the time that the agreement has been in place, violent crime rates have significantly declined in Detroit, consistent with academic studies showing that bail reform improves public safety. (*Ross v. Chief Judge of the 36th District Court*; ACLU of Michigan Attorneys Phil Mayor and Dan Korobkin, with investigator Giancarlo Guzman; National ACLU Attorneys Brandon Buskey and Trisha Triglio; Co-counsel Twyla Carter of the Legal Aid Society, Amia Trigg of the Legal Defense Fund, and Aaron Lewis, Kathryn Irwin Bronstein, Mariah Watson, and Rachel Favors of Covington & Burling.)

Youth Sentenced to Die in Prison. For over a decade, the ACLU has fought against Michigan's cruel policy of allowing youth to be sentenced to life in prison without the possibility of parole. In 2010 we filed a class action lawsuit in federal court challenging the practice as unconstitutionally cruel and unusual punishment, resulting in a 2018 victory allowing hundreds of youth to be considered for early release and an eventual settlement in 2020. In 2021 and 2022 we joined the Juvenile Law Center in filing friend-of-the-court briefs in multiple cases that had reached the Michigan Supreme Court. In a series of opinions released in July 2022, the Michigan Supreme Court agreed with our position that the Michigan Constitution provides greater protections to youth facing life sentences. The Court held that a life sentence cannot be automatic for 18-year-olds, and judges must consider their youth at sentencing like they would for those under 18. The Court also held that for children charged with lesser, second-degree offenses, a life sentence (including with the possibility of parole) is categorically unconstitutional and cannot be imposed. Finally, in cases where prosecutors are still allowed to seek life-without-parole sentences for youth, the Court held that they must meet a "clear and convincing evidence" burden of proof. Hundreds of youth will now be eligible for resentencing based on these new,

more protective, constitutional rules. In November 2023 we filed another friend-of-the-court brief in the Michigan Supreme Court urging the court to eliminate life without the possibility of parole sentences for juveniles once and for all. In 2024, we filed three additional friend-of-the-court briefs in cases before the Michigan Supreme Court. In a series of decisions issued in April 2025, the Court again agreed with our position and held that mandatory life without parole sentences for individuals aged 19 and 20 are unconstitutional and that youth must be considered at the time of their sentencing. The Court also extended its prior holding in *People v. Parks* to any 18-year-old in the past who was subject to mandatory life without parole. As a result the Court's decisions garnered even greater protections for hundreds of Michigan youth who were previously subject to this unconstitutional death sentence. (*Hill v. Snyder*; *People v. Poole*; *People v. Stovall*; *People v. Taylor*; *People v. Paredes*; *People v. Czarnecki*; *People v. Taylor*; ACLU of Michigan Attorneys Bonsitu Kitaba-Gaviglio and Dan Korobkin; National ACLU Attorneys Steven Watt and Brandon Buskey; Co-counsel Marsha Levick, Riya Saha Shah, and Andrew Keats of the Juvenile Law Center, Tessa Bialek and Sarah Russell of Quinnipiac University School of Law, Elizabeth Komar and Becky Feldman of The Sentencing Project, and Deborah LaBelle.)

Challenging Michigan's Punitive, Excessive Registration Law. For over a decade, the ACLU of Michigan has been challenging Michigan's sex offender registration law, which has barred people with past offenses from living and working in large portions of the state, and has subjected them to ongoing supervision and reporting requirements, in many cases for life, all without any consideration of individual circumstances. In 2012 the ACLU of Michigan, working with the University of Michigan's clinical law program, challenged the law in federal court on behalf of six registrants—including a man who was never convicted of a sex offense and several men convicted of consensual sex with younger teens, one of whom he has since married. In 2016 the Sixth Circuit issued a groundbreaking decision ruling that the retroactive application of the amendments to those convicted before 2011 violates the United States Constitution's rule against ex post facto laws. But despite the Sixth Circuit's ruling, Michigan failed to bring its registry into compliance, leaving tens of thousands of other registrants at risk of prosecution unless they complied with the law's onerous and unconstitutional requirements. Therefore, in 2018 we filed a class action lawsuit to ensure that all Michigan registrants obtain the benefit of the rulings in the earlier case. In 2020 Judge Robert Cleland ruled in favor of the class. Judge Cleland further ruled that the statute's exclusion zones and certain reporting requirements are unconstitutionally vague for all registrants, and that strict liability prosecutions under the law are impermissible. In 2021 the Michigan Supreme Court, in a case where we filed friend-of-the-court briefs, also ruled that retroactive application of the statute is unconstitutional. Unable to enforce the old law, the legislature passed a new version which made only minor tweaks. In February 2022 we filed another class action challenging the revised law. In decisions in September 2024 and March 2025, Judge Goldsmith granted summary judgment to registrants on some claims and to the state on others. The court held that SORA imposes retroactive punishment in violation of the Ex Post Facto Clause, held that many of SORA's provisions are unconstitutionally vague, enjoined reporting of internet identifiers and emails as violating the First Amendment, barred registration for people with non-sex offenses, barred the state from forcing registrants to say they understand SORA, and held that SORA's treatment of people with convictions from other jurisdictions is unconstitutional. The Court rejected other claims that sought to ensure individual review and path off the registry. Both sides appealed to the Sixth Circuit, which stayed some of the relief granted by the district court. Briefing in the Sixth Circuit will conclude in early 2026.

Meanwhile, the Michigan Supreme Court, in another case where we filed friend-of-the-court briefs, held in July 2024 that the revised law is cruel or unusual punishment when applied to people who were not convicted of sex offenses. (*John Does #1-5 v. Snyder*; *John Does #1-6 v. Snyder*; *John Does A-H v. Whitmer*, *People v. Betts*; *People v. Lymon*; ACLU of Michigan Attorneys Miriam Aukerman, Syeda Davidson, Ewurama Appiagyei-Dankah, Marty Berger, Dan Korobkin, Monica Andrade, Elaine Lewis, Rohit Rajan, and Dayja Tillman; ACLU Criminal Law Reform Project Attorney Allison Frankel; Cooperating Attorneys Paul Reingold of U-M Law School and Roshna Bala Keen, Lauren Carbajal, and Imani Franklin of Loevy & Loevy; Co-counsel Alyson Oliver and Cameron Bell of Oliver Law Group.)

Challenging Lifetime Electronic Monitoring Without Any Review. Under Michigan law, people who commit certain offenses are required to wear an electronic monitor for the rest of their lives with no individual review ever. Such devices are highly stigmatizing, can cause pain and health problems, and require several hours of charging daily, such that a person who spends 25 years on lifetime electronic monitoring (LEM) will spend more than two years chained to an outlet. In February 2025, the ACLU filed friend of the court briefs in the Michigan Supreme Court in two cases where that Court is considering the constitutionality of LEM. The ACLU argued that automatic imposition of LEM with no opportunity for removal violates federal and state constitutional prohibitions on cruel or unusual punishment and on unreasonable searches. The case is pending. (*People v. Kardasz; People v. Martin*; ACLU of Michigan Attorneys Miriam Aukerman and Dan Korobkin; National ACLU Attorneys Allison Frankel, Nathan Freed Wesler, and Lauren Yu).

Detaining People Based on the Smell of Marijuana. Now that marijuana is legal under Michigan state law, smelling like marijuana is no longer a bona fide indication that you recently committed a crime. However, Detroit police officers nonetheless detained a driver and her passenger after allegedly smelling marijuana coming from their parked car. After detaining them, the officers found a gun under the passenger's seat. The passenger filed a motion to exclude evidence of the gun in the trial court, arguing that the mere smell of marijuana, a lawful substance, did not justify his detention in the first place. The trial court agreed, the Court of Appeals affirmed that decision, and the Michigan Supreme Court agreed to hear the case. In May 2024 the ACLU of Michigan, joined by the Legal Defense Fund and the Michigan NAACP, filed a friend-of-the-court brief explaining that the mere smell of marijuana cannot give rise to probable cause or reasonable suspicion to conduct a police stop or detention. We were granted special permission to participate in oral argument, which occurred in September 2024. In April 2025, the Michigan Supreme Court ruled in favor of the passenger, holding that the mere smell of marijuana can no longer be the sole motivation for a police stop. (*People v. Armstrong*; ACLU Attorneys Ramis Wadood, Phil Mayor, and Dan Korobkin; Co-counsel Jin Hee Lee, Christopher Kemmitt, Kacey Mordecai, Molly Cain, and Kimberly Saltz of the Legal Defense Fund.)

Removing Barriers for People with Criminal Records. About 2.8 million people in Michigan have criminal records—records that affect their ability to get employment, housing, and an education, as well as to be involved in their children's lives. Expungement, a legal process where the court can set aside a past conviction, provides a path to a new life without the stigma and obstacles of a criminal record. After the Michigan Supreme Court announced that it would consider a case that will determine the legal standard for granting expungements, the ACLU of Michigan joined other advocacy groups in filing a friend-of-the-court brief in June 2023. The

expungement statute requires that setting aside the conviction must be "consistent with the public welfare." Our brief argues that this requires balancing the benefits to society of expungement against any possible costs, and explains that those benefits include improved employment and housing opportunities for people whose records are set aside. In July 2024 the Supreme Court issued an opinion agreeing that "public welfare" requires considering the benefit to the public as a whole, and that an expungement cannot be denied simply because the victims in a case opposed it. (*People v. Butka*; ACLU Attorneys Miriam Aukerman and Dan Korobkin; Co-counsel Mira Edmonds and student attorney Gabe Chess of U-M Law School, and Kimberly Crawford of the Michigan Advocacy Project.)

Harsh Mandatory-Minimum Sentencing Laws. In 2018 Congress passed a law known as the First Step Act, which reduced some of the most egregiously harsh mandatory-minimum sentences under federal law. There is now a circuit split on whether those reductions should apply to someone who was originally sentenced before the law took effect but whose sentence was later vacated and remanded for resentencing on some other ground. In December 2023 the ACLU filed a friend-of-the-court brief in the U.S. Supreme Court asking the Court to take the case of Timothy Carpenter, a former ACLU client who is serving a 105-year sentence for committing a series of robberies in which no one was physically harmed, and whose sentence would be reduced to 25 years under the new law. Unfortunately, in February 2024 the Supreme Court denied Carpenter's petition. (*Carpenter v. United States*; ACLU of Michigan Attorney Dan Korobkin; National ACLU Attorneys Emma Andersson, Nathan Freed Wessler, Evelyn Danforth-Scott, Yasmin Cader, Cecillia Wang, and David Cole; Co-counsel Clark Neily of the Cato Institute and Shana Tara-O'Toole of the Due Process Institute.)

Coerced Confessions and Denial of Counsel. In August of 2022, Detroit police arrested Darren Fenderson on suspicion of a crime and convinced him to start answering questions without a lawyer. Partway through the interrogation, Mr. Fenderson decided to ask for a lawyer. The interrogating officer said he would try to go get him one and left Mr. Fenderson handcuffed in the room for hours. Eventually the officer came back and said "you don't get one" when Mr. Fenderson asked where his lawyer was. Under this immense pressure, Mr. Fenderson made statements that prosecutors later tried to use against him, arguing that he abandoned his right to remain silent by speaking with the officer again. The Michigan Court of Appeals agreed, and held that Mr. Fenderson's statement could be used against him, and Mr. Fenderson appealed to the Michigan Supreme Court in July 2024. In June 2025, the ACLU filed a friend-of-the-court brief in support of Mr. Fenderon, arguing that the police's coercive interrogation techniques violated his rights both under *Miranda* and, separately, under the more protective terms of the Michigan Constitution. A decision is pending. (*People v. Fenderson*; ACLU of Michigan Attorneys Phil Mayor and Bonsitu Kitaba-Gaviglio; National ACLU attorneys Terry Ding, Jackson Springer, and Matt Segal.)

Fighting Marijuana Bans on Probation. Marijuana is now legal under state law in Michigan, and state law protects people who use it legally from being punished by government officials. But despite these protections, some courts have been prohibiting people on probation from using marijuana—even when they're following state law—and punishing them if they do. One woman asked the court to change the terms of her probation, arguing that because marijuana is legal in Michigan, the court could not prohibit her from using or possessing marijuana while on probation or punish her if she did. The court refused and the Court of Appeals agreed with that

decision. The Michigan Supreme Court has taken up the case. In September 2025, the ACLU of Michigan filed a friend-of-the-court brief explaining that courts cannot prevent people on probation from using or possessing marijuana if they are doing it as otherwise allowed by state law. We argued that the protections for all people—including people on probation—who use marijuana lawfully are rooted in both the Michigan Constitution, under which voters directly enacted legislation that legalized marijuana, and the broad language of the legislation that voters enacted. We also noted that many voters passed the legislation that legalized marijuana with the goal of moving away from the failed "War on Drugs." The case is pending before the Michigan Supreme Court. (*People v. Hess*; ACLU Attorneys Ewurama Appiagyei-Dankah, Phil Mayor, and Bonsitu Kitaba-Gaviglio.)

Transparency About Violent Police Encounter. Stephen Mason, a Highland Park African American man was fatally shot by a Michigan State Police trooper during a traffic stop on or about May 16, 2025. In the aftermath, the accounts by troopers and witnesses about how the death occurred were substantially different. Though requested by Mason's family, video footage of the encounter was not immediately released. The ACLU of Michigan wrote to the Michigan State Police and urged that the video footage of the event be released. Soon afterward the ACLU was contacted, and the family was provided with an opportunity to view the video privately and to have their questions and concerns about how the death occurred answered. (ACLU Attorney Mark P. Fancher.)

DISABILITY RIGHTS

Police Take Dog After Owner Calls for Help. Dale Bryant, a Black man and double amputee who uses a wheelchair and lives alone in Taylor, is the loving owner of a German Shepherd puppy named King whom he adopted for companionship and to eventually train as a service animal. One day when King's leg became entangled in his crate and Mr. Bryant was unable to free the dog, he called 911 to make sure the situation did not worsen and lead to an injury. But instead of sending help, the city sent police officers who made derogatory comments about Mr. Bryant's disability, accused him of mistreating King, took King into city custody, and filed criminal charges against Mr. Bryant. After the ACLU of Michigan helped Mr. Bryant retain a pro bono criminal defense attorney, it took nearly four months for charges to be dropped and for King to be returned home. We then discovered that Taylor maintained offensive policies warning its police officers that "persons with disabilities often rely on their disability to attempt to manipulate and control their environment," and that individuals they encounter "may be handicapped, but they are not stupid, and expect you to empathize with their overt condition." Unfortunately, Taylor is only one of many cities where emergency response personnel consist mostly of armed police officers who are trained to charge someone with a crime rather than social service providers equipped to address the needs of people with disabilities. In 2022 we filed a federal lawsuit seeking damages for Mr. Bryant and new training and policies for Taylor police officers. In March 2024 the case was settled after Taylor rescinded its policies, agreed to train its officers on new policies, and paid Mr. Bryant damages. (*Bryant v. City of Taylor*; ACLU Attorneys Syeda Davidson, Mark P. Fancher, and Dan Korobkin; Cooperating Attorney Jennifer Grieco of Altior Law; defense attorney Allison Kriger of LaRene & Kriger PLC.)

EDUCATION

Special Education in Flint. In 2016 the ACLU of Michigan and the Education Law Center filed a class action lawsuit against the State of Michigan and local school districts over the systemic failure to provide an adequate education for children with disabilities in Flint. In the wake of the Flint water crisis, in which the population of an entire city (including approximately 30,000 children) was exposed to lead, our investigation revealed that the public school system lacked the resources, support and expertise needed to properly screen children for disabilities, to address the educational needs of children who have or are at risk of developing disabilities, and to ensure that students with disabilities are not unfairly disciplined, restrained, or excluded from public education. In 2017 Judge Arthur Tarnow denied the defendants' motions to dismiss, and the Sixth Circuit rejected the defendants' attempt to bring an interlocutory appeal. In 2018 the state agreed to settle a portion of the case by funding a first-of-its-kind initiative that provided every child in Flint access to an independently run, state-of-the-art screening program designed to detect disabilities associated with lead exposure. Following additional discovery and negotiations, in 2020 we settled the remaining claims in the case. In May 2024 the parties reached an additional agreement regarding the parameters, timing, and other criteria for the use of the settlement funds, allowing the case to be closed in August 2024. The settlement includes $9.69 million from the state to establish a fund for special education services for students impacted by the water crisis, $2 million in additional funding from the county, and a commitment to undertake a comprehensive assessment and modification of Flint-area special education plans and policies. The special education fund has begun to assist with the creation of a pipeline program at the University of Michigan-Flint to educate new special education teachers and social workers with incentives to work in Flint and Genesee County schools after graduation. Additional behavioral and literacy specialists were hired and are available to all children in Flint and Genesee County. The fund creates an education benefit review board to evaluate and recommend improvements to Flint and other schools' special education programs and will provide support and additional training to teachers. A comprehensive independent review of Flint's special education program is being conducted and will provide recommendations for improvements. (*D.R. v. Michigan Department of Education*; ACLU Attorneys Syeda Davidson, Bonsitu Kitaba-Gaviglio, Kristin Totten, and Dan Korobkin, with investigator Giancarlo Guzman; Co-counsel Greg Little, Jessica Levin, Elizabeth Athos, and David Sciarra of the Education Law Center, and Lindsay Heck, Michael Jaoude, and Greg Starner of White & Case.)

ENVIRONMENTAL JUSTICE

Safe Water for the People of Flint. After the State of Michigan stripped the residents of Flint of their ability to elect local representatives, state-appointed officials decided to use the Flint River as a water source without adding corrosion controls. As a result, lead leached from the water pipes and poisoned the drinking water, causing untold harm to the people of Flint. The ACLU of Michigan and the Natural Resources Defense Council (NRDC) filed a federal lawsuit against state and city officials seeking a court order requiring them to comply with the Safe Drinking Water Act. The goal of the lawsuit, filed in 2016, was to require the state and the city to replace the lead pipes and, in the meantime, ensure that officials deliver safe drinking water. Judge David Lawson granted our request for door-to-door bottled water delivery and filter installation, and soon after recommended that the parties enter mediation. In 2017 we reached an

unprecedented settlement for $97 million requiring the state and city to replace all lead and galvanized pipes throughout Flint, allocate resources for health and wellness programs, continue door-to-door filter installation and education, and extensively monitor Flint's tap water for lead. We continue to monitor compliance and, when necessary, file motions to enforce the settlement agreement's requirements that Flint complete excavations and replacements of lead pipes at all remaining homes. In February 2023 the court ordered Flint to complete its work by August 2023, but Flint failed to meet the deadline. We consequently filed a motion to hold the city and its mayor in contempt for repeatedly violating the settlement agreement and court orders. In March 2024 the court granted the motion for contempt against the city, ordered the city to set new deadlines for final completion of the work, and awarded attorneys' fees to plaintiffs' counsel. In July 2024 the State of Michigan agreed to take over and complete all remaining work, and in June 2025, the State and City completed all pipe replacements and restoration work required under the settlement agreement. (*Concerned Pastors for Social Action v. Khouri*; ACLU Attorneys Bonsitu Kitaba-Gaviglio and Dan Korobkin; Co-counsel Sarah Tallman, Dimple Chaudhary, Adeline Rolnick, Jolie McLaughlin, and Jared Knicley of NRDC, and Glenn Simmington.)

FREEDOM OF SPEECH

Landlord Retaliates Against Housing Rights Activists. Moratorium NOW! coalition is a grassroots activist organization in Detroit that focuses on economic justice issues such as foreclosures, evictions, and utility shutoffs. In 2022 the organization began to call public attention to what it perceived to be extremely poor conditions in low-income housing owned by local landlord Gaston Munoz, whose company has been cited for city violations. Munoz responded by suing Moratorium NOW! and its members, accusing them of defamation and interfering with his business interests. This is a classic case of what's known as a "Strategic Lawsuit Against Public Participation," or SLAPP, where a lawsuit is used to retaliate against people who speak out on issues of public concern and deter others from joining them for fear of also being sued. In March 2023 the ACLU of Michigan stepped up to represent Moratorium NOW! and its members to fight back against this abuse of the legal system. Our defense included filing counterclaims against the landlord seeking damages. In August 2024 we reached a favorable settlement agreement that did not require Moratorium NOW! or its members to pay any money or relinquish their First Amendment rights, and in fact required the landlord to pay our clients. (*Munoz Realty v. Flores*; ACLU Attorneys Syeda Davidson, Mark P. Fancher, and Dan Korobkin; Co-counsel Kathryn James, Julie Hurwitz, Bill Goodman, and Holland Locklear of the National Lawyers Guild; defense attorney Allison Kriger of LaRene & Kriger PLC.)

Book Banning Is Back. Beginning in 2022 a new wave of hostility to freedom of thought and inquiry erupted throughout the country, including in Michigan, as right-wing organizations and parents intensified efforts to ban books and materials they disfavored from public libraries and public schools. Many of the books targeted are those that feature LGBTQ+ characters and themes, as well as issues involving race, poverty, disadvantage, and difference. In November 2022 the ACLU of Michigan sent a letter to superintendents and school board presidents throughout the state, warning that banning books from school libraries based on the ideas expressed in those books would violate the First Amendment, and urging all educators to take a stand in favor of inclusivity, openness, and free inquiry for our youth. In March 2023 a

controversy erupted in Lapeer regarding the availability of the award-winning book, *Gender Queer: A Memoir*, in that town's public library; most troubling were public statements by the county prosecutor suggesting that he would consider bringing criminal charges against the librarian if the book was not removed. The librarian retained us as her criminal defense attorneys, and we wrote the prosecutor a letter condemning his statements and warning him that any effort to take action against the librarian would violate the First Amendment. Fortunately, in May 2023 the library's board of directors voted unanimously to keep the book in its collection, and the prosecutor took no action.

Meanwhile, in June 2023 we wrote to the Forest Hills Public Schools condemning the superintendent's unilateral removal of books from the school library based on parents' complaints, and also urging the school district to reverse a decision to remove books from the first-grade curriculum that included a fictional character who was being raised by two moms. Although the library books were returned to the shelves, the curriculum decision has not been reversed. (ACLU attorneys Jay Kaplan and Dan Korobkin; Cooperating Attorneys John Shea and Charissa Huang.)

In February 2025, the President of the Cromaine Public Library in Hartland, announced that he was working with the local Sheriff's office to develop a labeling system of books that would state that a book contained sexually explicit content and that adults could be criminally prosecuted if they exposed a minor to the particular book. This announcement was prompted by a patron who had requested 200 titles be removed from the library- a large majority of which featured LGBTQ characters. After receiving pushback from the community, the Library Board then considered a proposal that would give them authority to override decisions made by the librarian regarding labeling books. Given the previous statements made by the Board President, in May 2025 we sent a letter to the Library Board, expressing concerns regarding using labeling as a form of censorship of LGBTQ related books and materials. The Board then adopted a policy that permits the Board to consult with the librarian regarding labeling, but the librarian still has ultimate authority. (ACLU Staff Attorneys, Jay Kaplan and Bonsitu Kitaba-Gaviglio).

In March 2025 we sent a letter to the Traverse Area District Library Board in response to a request they received from a community member to have access restricted to the acclaimed children's book "Granddad's Pride," due to the fact that it features gay characters. The Board was considering moving the book from the youth to the adult section of the library to limit access. Our letter disapproved of this move based on the content of the book because it could be unconstitutional censorship. In response to our letter, the Board rejected the book challenge and "Granddad's Pride" remains in the youth section of the library. (Staff Attorney Syeda Davidson and Cooperating Attorney Michael Naughton).

In April 2025 we sent a letter to the Alpena School Board, which was considering a policy that would permit parents objecting to library and instructional materials, to bypass the procedure by which a review committee considers their objections and go directly to the superintendent to render a decision regarding the removal of such materials. Our letter addressed First Amendment concerns as well as the need to have an open and transparent process. In response, the District agreed to maintain its current policy of having a review committee. (Staff Attorneys Syeda Davidson, Jay Kaplan, and Bonsitu Kitaba-Gaviglio).

Public Officials on Social Media. Social media is the new town square, where public officials and constituents meet to engage on matters large and small. A single social media profile can contain multitudes of posts, supplying everything from official news about a public health crisis; government meetings and elections; to highly personal matters like birthdays, pet photos and home improvement projects. When public officials act in their private capacity to communicate through these tools, the First Amendment protects their freedom of speech. When public officials act under color of law, however, the First Amendment's restrictions on government censorship and retaliation also constrain their ability to block constituents and delete their comments. In August 2023 the ACLU filed a friend-of-the-court brief in the United States Supreme Court in a case that arose out of Michigan that raised the core issue of how to distinguish between a government official's private-capacity use of these tools, which is entitled to First Amendment protections, and his official-capacity use of these tools, which is subject to First Amendment prohibitions. Our brief urged the Court to adopt a test which looks at whether the public official was engaged in official duties and whether a reasonable observer would think they were cloaked in the authority of their office with respect to the action at issue. In March 2024 the U.S. Supreme Court ruled that social media deletions and blocking are subject to First Amendment scrutiny when the official who operates the account has the authority to speak on the state's behalf and purports to exercise that authority through their relevant social media presence. (*Lindke v. Freed*; National ACLU Attorneys David Cole, Evelyn Danforth-Scott, Vera Eidelman, and Esha Bhandari; ACLU of Michigan Attorneys Dan Korobkin and Bonsitu Kitaba-Gaviglio.)

Student Protesters Banned from University of Michigan Campuses. Since Fall 2023, college campuses across the country have seen a spike in protests in support of Palestinian human rights. At the University of Michigan, administrators have responded to political speech and protests related to Palestine with increasingly repressive policies and actions, including shutting down email listservs on which the war was being discussed, removing anti-war posters from graduate students' office windows, canceling a student election on competing resolutions about the crisis, and heavy-handed police responses to organized protests. In particular, the University began to increasingly "trespass"—i.e., ban—students and other community members from its entire campus based on a single allegation of misconduct at a single protest. In December 2023 and April 2024, the ACLU of Michigan sent public letters to the University of Michigan expressing its concern about these escalating patterns of the University stifling its students' speech and advocacy. But the University's repressive actions continued. In February 2025, the ACLU of Michigan, the Sugar Law Center, and cooperating attorneys at Schulz Ghannam sued the University on behalf of five protestors who were banned from all University of Michigan property after participating in a protest. The lawsuit challenges the University's practice of liberally issuing trespass bans to protestors, alleging that the practice violates the plaintiffs' First Amendment and Due Process rights. The lawsuit was amended in August 2025 to include other protestors who were banned from campus in a similar fashion after participating in a protest related to the University's plan to build a data center affiliated with the military. The lawsuit is ongoing. (*Zou v. Grasso;* ACLU Attorneys Ramis Wadood, Phil Mayor, Bonsitu Kitaba-Gaviglio, Syeda Davidson, and Dan Korobkin; Co-counsel Liz Jacob and John Philo of Sugar Law Center, and Amanda Ghannam and Jack Schulz of Schulz Ghannam PLLC).

Township Tries to Ban Peddlers and Anyone Who Spreads Information. One of the most basic rights protected by the First Amendment is the ability to share information with neighbors

or ask them for things. In August of 2025, we learned that the City of Brighton was planning to enact an ordinance requiring almost all panhandlers or peddlers (with a special exception seemingly designed to protect trick-or-treaters or girl scouts selling cookies) to get a permit, which the chief of police could deny if they decided for any reason the person lacked "good moral character." Some versions of the ordinance suggested that the city also wanted to require permits for anyone who wanted to spread or obtain any kind of information from place to place, like asking your neighbor for a cup of sugar or sharing the details about a neighborhood BBQ in the park. Upon learning of this plainly unconstitutional ordinance, the ACLU of Michigan immediately sent a demand letter informing the mayor and city council that the proposed ordinance was hopelessly unconstitutional and never should have been proposed for a vote. The ordinance was taken off the city council agenda and, as of now, appears to have properly been indefinitely shelved. (ACLU Attorneys Phil Mayor and Bonsitu Kitaba-Gaviglio.)

Anti "Prowling" Ordinance in Traverse City. In December 2024, we learned that the Traverse City city council was contemplating enacting a series of ordinances, including an anti-loitering ordinance and a criminal prohibition on "prowling", a term that was barely defined in the statute. These vague and troubling ordinances had a very significant chance of being weaponized primarily against unhoused individuals. In January 2025, our lawyers committee in Northwest Michigan wrote a letter to the city council raising serious constitutional concerns about the draft ordinances, and the ordinances were pulled from the city council agenda. The city attempted to redraft the ordinances, but the new draft contained similar issues and also raised new problems implicating the right against self-incrimination, which we expressed to the city in March 2025. The city has subsequently indicated that it will not move forwards with these ordinances. (ACLU Attorney Phil Mayor; Cooperating attorneys Holly Hillyer, Mike Naughton, and Daniel Bartz.)

Public Access to Court Records to Facilitate Voter Advocacy. Every court in Michigan makes video or audio recordings of many of its proceedings. However, unlike many other states, Michigan lacks a statewide rule requiring those recordings to be made available to the public, even though they are produced using taxpayer dollars. Dr. Samantha Hallman is a university instructor, researcher, and an advocate for judicial transparency who, from 2021 onwards, has sought to obtain recordings of a number of proceedings that occurred in Michigan's 52nd district court (Rochester and nearby communities) and its 6th Circuit Court (Oakland County). Both courts denied her requests in part or whole because of local administrative orders that restricted public access to recordings of court proceedings. Dr. Hallman wishes to use these recordings to educate herself and the public, about what happens in local courts; to inform herself and others in voting on local judges, as Michigan voters are called upon to do in almost every election; and to lobby statewide elected officials to adopt stronger measures to promote judicial transparency. In April 2025, the ACLU filed a complaint in federal court against officials at both courts that denied Dr. Hallman's requests, arguing that restricting Michiganders' access to recordings of open court proceedings violates the First Amendment. In June 2025, the government moved to dismiss; in July we filed response briefs; and in August the government filed a reply. We are awaiting a decision. (*Hallman v. Reeds*; ACLU Attorneys Phil Mayor, Dan Korobkin, and Bonsitu Kitaba-Gaviglio.)

City of Warren Attempts to Tone Police Public Commenters. Michigan law requires that almost all meetings of public bodies be open to the public and allows the public to speak at most

such meetings. In July 2024, in response to a series of public comments that members of the Warren City Council found offensive, the city council adopted a new rule prohibiting public commenters from making comments that, among other things, included "personal attacks" or were "likely to provoke disorderly conduct." In September 2024, we sent a letter to the City of Warren explaining why both rules likely violated the First Amendment by intimidating the public from speaking at public meetings and by discriminating against speakers who wanted to complain about the conduct of their elected officials. Around November 2024, the city council adopted changes to their policy responsive to both of the issues we raised. (ACLU Attorneys Dan Korobkin and Phil Mayor.)

Student Right to Protest Gaza Tragedy in School. In January 2025 a 14-year-old student of Palestinian descent at East Middle School in the Plymouth-Canton Community Schools district chose to express her personal distress and concern about tragic, violent events in Gaza by, on three separate occasions, remaining seated during the recitation of the Pledge of Allegiance. Although she caused no disruption or disturbance of the classroom environment, her teacher admonished her in front of her classmates and scolded her, stating that the student was being disrespectful to U.S. military forces and the flag. On the third and final occasion that Plaintiff remained seated, the teacher told her she should be ashamed of herself. After class, when the student attempted to engage the teacher in a discussion about her motivation for remaining seated–specifically her concern about U.S. complicity in the violence, the teacher responded: "Since you live in this country and enjoy its freedom, if you don't like it, you should go back to your country." As a result of this treatment, the student was emotionally devastated. She experienced loss of sleep, recurring nightmares and high stress levels. She also experienced some degree of social isolation, and her academic performance was negatively impacted. The ACLU of Michigan sued the teacher and the school district on the student's behalf for violation of her First Amendment rights. (*D.K. v. Plymouth-Canton Community Schools*; ACLU Attorneys Mark P. Fancher and Bonsitu Kitaba-Gaviglio; Cooperating Attorney Nabih Ayad of the Arab American Civil Rights League.)

IMMIGRANTS' RIGHTS

Vulnerable Immigrants Freed from Jail During the COVID-19 Crisis. Immigration and Customs Enforcement (ICE) warehouses many immigrants in Michigan jails while seeking to deport them from the country. During a pandemic, this practice was not just inhumane, it could be deadly, particularly for people who are older or have medical vulnerabilities. People in jails were crowded together in unsanitary conditions with no ability to socially distance or protect themselves from the virus, and medical care in jails is notoriously inadequate for people with chronic conditions. In 2020 the ACLU sued ICE, arguing that keeping immigrants with vulnerabilities locked up during the pandemic violates their constitutional right to safe conditions of confinement. Judge Judith Levy agreed, certified a class of immigration detainees held at the Calhoun County Jail, and adopted a bail application process to decide whether vulnerable class members should remain locked up there. In 2020 and 2021, over 50 medically frail people were freed through the case. Efforts to settle the case in 2022 and 2023 were unsuccessful, and active litigation in the case resumed in April 2024. ICE is now taking the position that it should be allowed to redetain the medically frail people who were ordered released during the pandemic, even though Calhoun has not provided the COVID-19 vaccine to any immigration detainee since

May 2023 and those who have been released have been living safely in the community for years. We have asked the Court for leave to amend in order to argue that medical care in the jail remains unconstitutionally inadequate, and that because immigration detention is permissible only to prevent flight or protect the public, people whom the court has individually determined not to be a flight risk or danger and who have been living in the community for years cannot be redetained without a hearing. (*Malam v. Adducci*; ACLU of Michigan Attorneys Miriam Aukerman, Ramis Wadood, Ewurama Appiagyei-Dankah, Syeda Davidson, Dan Korobkin, Monica Andrade, Elaine Lewis, and Rohit Rajan; National ACLU Attorneys Anand Balakrishnan, My Khanh Ngo, Eunice Cho, and Michael Tan; Cooperating Attorneys Jeannie Rhee, Mark Mendelson, Johan Tatoy, and Tanaz Moghadam of Paul Weiss.)

Iraqis Face Torture or Death if Deported. In 2017 hundreds of Iraqis in Michigan and throughout the country were arrested by Immigration and Customs Enforcement (ICE), which intended to deport them immediately to Iraq. Most had been living in the United States for decades, but were previously ordered deported, either for technical immigration violations or for past convictions. Because the Iraqi government had long refused to issue travel documents for potential deportees, the United States has been unable to deport them. But when Iraq agreed to accept some U.S. deportees, suddenly all 1400 Iraqis with an old deportation order were targets. The ACLU filed a class action lawsuit in federal court to stop the deportations on the grounds that they would likely result in persecution, torture or death for those deported. In 2017 Judge Mark Goldsmith issued a preliminary injunction barring deportation of Iraqis while they access the immigration court system, giving them time to file motions to reopen their immigration cases based on the changed country conditions or legal developments in the decades since their cases were decided. Subsequent orders in 2018 required the government to provide Iraqis with bond hearings and release those who had been detained longer than six months, freeing hundreds of people from detention. The government appealed, and in decisions in December 2018 and January 2020 the Sixth Circuit reversed, each time by a vote of 2-1. Despite the legal setbacks in the Sixth Circuit, the case allowed hundreds of Iraqis to access the immigration court system, as well as to fight their immigration case from home, rather than in detention. Many are winning their immigration cases, and some have even become citizens. But a few have been deported, and one of our clients, Jimmy Al Dauod, died in Iraq. After several years of negotiations, the case settled and the court approved the settlement at a July 2024 fairness hearing. The settlement limits when and for how long class members can be detained and provides other important protections like ensuring that seeking to adjust one's immigration status is not a basis for detention. (*Hamama v. Adducci*; ACLU of Michigan Attorneys Miriam Aukerman, Ewurama Appiagyei-Dankah, Ramis Wadood, Bonsitu Kitaba-Gaviglio, Dan Korobkin, Monica Andrade, and Elaine Lewis; National ACLU Attorneys Lee Gelernt, Judy Rabinowitz, and Anand Balakrishnan; Cooperating Attorneys Margo Schlanger of U-M Law School, Kimberly Scott, Wendy Richards, Sarah Reasoner and Erika Giroux of Miller Canfield, with support from Katie Witowski and Kacey O'Neill, David Johnson, Linda Goldberg, and William Swor; and Co-counsel Nadine Yousif and Nora Youkhana of CODE Legal Aid, Susan Reed and Ruby Robinson of the Michigan Immigrant Rights Center, and Mariko Hirose of the International Refugee Assistance Project.)

U.S. Citizen Turned Over to ICE for Deportation. The ACLU of Michigan took up the case of Jilmar Ramos-Gomez, a United States citizen and Marine Corps veteran who was wrongfully turned over to Immigration and Customs Enforcement (ICE) for deportation proceedings. Mr.

Ramos-Gomez, who suffers from PTSD as a result of his military service in Afghanistan, was arrested by the Grand Rapids police in 2018 after trespassing at a local hospital. An off-duty police captain named Curt VanderKooi saw Mr. Ramos-Gomez's picture on the news and asked ICE to check his "status," despite having no reason to think he was undocumented other than his name and Latine appearance. ICE then issued an immigration detainer request for Mr. Ramos-Gomez, resulting in the Kent County Jail placing him in federal custody until his family could prove he was a U.S. citizen and get him released. An ACLU of Michigan investigation revealed that VanderKooi, who is supposed to have no role in immigration enforcement, had contacted ICE on over 80 occasions, each time asking them to check the immigration status of a person of color. In 2019 VanderKooi was suspended without pay, the Grand Rapids police announced a new policy that prohibits officers from inquiring about a person's immigration status or contacting ICE for civil immigration enforcement, and the City of Grand Rapids settled Mr. Ramos-Gomez's claim for $190,000. Similarly, Kent County adopted a new policy requiring a judicial warrant before turning someone over to ICE. ICE, however, refused to accept responsibility, and we filed suit to hold the officers involved accountable. Judge Robert Jonker dismissed that lawsuit in January 2022 on various grounds, including qualified immunity. In May 2022 we filed a second lawsuit against the United States under the Federal Tort Claims Act seeking damages for Mr. Ramos-Gomez, and that case settled in November 2022. Related lawsuits to obtain public records were settled in February 2024. (*Ramos-Gomez v. Adducci*; *Ramos-Gomez v. United States*; *ACLU of Michigan v. Department of Homeland Security*; *ACLU of Michigan v. Calhoun County Sheriff's Office*; ACLU Attorneys Miriam Aukerman, Dan Korobkin, Monica Andrade, Elaine Lewis, and Ramis Wadood; Cooperating Attorneys Anand Swaminathan, Joshua Burday, Merrick Wayne, Megan Pierce, and Matthew Topic of Loevy & Loevy; additional attorneys include Julia Kelly, Richard Kessler, and Hillary Scholten.)

International Students Targeted for Deportation. In March 2025 the federal government suddenly terminated the lawful status of thousands of international students who came to the United States on a visa to study at American universities. The government's mass termination of status rendered these international students subject to immediate arrest and deportation, and caused headline-making chaos nationwide. Many international students voluntarily left the country due to uncertainty about their futures and their safety. The ACLU of Michigan and its co-counsel filed a lawsuit on behalf of four international students at the University of Michigan and Wayne State University, alleging that the unexplained termination of their status was unlawful because it did not satisfy the regulatory requirements for terminating their status. At an emergency hearing, the government's lawyer assured the court that the students were not immediately at risk of arrest or deportation, causing the court to conclude that a restraining order was not necessary. Shortly after the hearing, however, the parties reached a settlement that fully restored the students' status and negated any negative consequences that the temporary termination might have had. (*Deore v. Noem*; ACLU Attorneys Ramis Wadood, Phil Mayor, Syeda Davidson, Bonsitu Kitaba-Gaviglio, Dan Korobkin; Cooperating Attorney Russell Abrutyn; Co-counsel Kevin Carlson of Pitt McGhee).

Immigrants Unlawfully Detained Without Bond. In July 2025, the federal government announced a sweeping new policy that rendered any noncitizen who allegedly entered the country without permission a target for immediate arrest and detention without the possibility of being released on bond—no matter how long they have been in the country. This policy upended decades of agency practice and interpretation of the immigration laws, which guarantee a bond

hearing for those same individuals. Because of the policy, millions of detained immigrants are at risk of being torn from their loved ones and losing their opportunity to fight their immigration cases at home. The government has put them in jail and thrown away the key. In August 2025, the ACLU of Michigan filed a habeas corpus petition on behalf of Juan Lopez Campos, a noncitizen with no criminal history who had been residing in the country for twenty-six years before he was picked up by immigration agents after a routine traffic stop. He was detained at the Monroe County Jail and denied a bond hearing to which he was entitled under the immigration laws. The petition proceeded speedily, and within three weeks, the federal court granted the petition and ordered that Mr. Lopez Campos be released or, at least, be given a bond hearing. The government released Mr. Lopez Campos from custody shortly after the petition was granted. He continues to fight his immigration case from home—surrounded by his family. In late September 2025, we filed another habeas petition, this time on behalf of eight noncitizens who were arrested and detained under the same policy. The lead plaintiff, Mr. Contreras-Cervantes is a father of three U.S. citizen children and has a rare, life-threatening form of leukemia which was not being adequately treated while in detention. His detention separated him from his medical team and jeopardized his health. In October 2025, the court again ordered either release or a speedy bond hearing, and Mr. Contreras-Cervantes and our other clients were released days later. In October the ACLU, along with our partners at the Michigan Immigrant Rights Center, launched a habeas pro bono project so that the many other immigrants who being illegally locked up—just like Mr. Lopez Campos and Mr. Contreras-Cervantes—can get the legal help they need to file similar cases and go home to their families. (*Lopez Campos v. Noem*; ACLU Attorneys Ramis Wadood, Miriam Aukerman, Phil Mayor, Nara Gonczigsuren Orantes, and Bonsitu Kitaba-Gaviglio; Cooperating Attorney Shahad Atiya; *Contreras-Cervantes v. Raycraft;* ACLU Attorneys Ramis Wadood, Miriam Aukerman, Phil Mayor, Nara Gonczigsuren Orantes, Marty Berger, and Bonsitu Kitaba-Gaviglio). If you are a lawyer and want to help us fight for justice for immigrants, sign up to volunteer here.

Legal Hotline for Immigrant Victims of Police Misconduct. After years of racist rhetoric, anti-immigrant policies and over-policing, immigrants often fall victim to abuse, discrimination, and other forms of misconduct at the hands of police officers and immigration agents. To address this problem and promote accountability, in 2022 the ACLU of Michigan launched a project dedicated to representing immigrant victims of police mistreatment in seeking relief for abuse and harassment they have faced. As a part of this project, we set up the Immigrant Police Misconduct Hotline (313-208-7048) that is available to anyone in Michigan who wants to report instances of police violence, discrimination or surveillance on the basis of their immigration status to the ACLU in a confidential manner. We have received numerous reports of anti-immigrant policing and have assisted multiple callers in seeking accountability. (ACLU Attorneys Ramis Wadood, Monica Andrade, Phil Mayor, and Nara Gonczigsuren Orantes.)

Immigrants Should Not Fear Arrest While Seeking Justice at Courthouses. The right of access to the courts is a fundamental right under both the Michigan and United States Constitutions. Everyone, regardless of immigration status, must have meaningful access to courthouses to file civil suits, defend against criminal charges, and testify as witnesses in order to protect the integrity of Michigan's judicial system. Reflecting the importance of access to the courts, Michigan has a law prohibiting civil arrests on or near courthouse property. And under prior Department of Homeland Security policy, Immigration and Customs Enforcement (ICE) was prohibited from conducting immigration arrests near courthouses except under extraordinary

circumstances. Unfortunately, under the second Trump administration, this policy has been rescinded, causing disruption almost immediately as ICE began conducting activity around courthouses nationwide. At Plymouth's 35th District Court, a US citizen was aggressively accosted by immigration agents in what appeared to have been a case of racial profiling. In response, in April 2025, the ACLU of Michigan, in partnership with the Michigan Immigrant Rights Center, drafted a proposed court rule reflecting Michigan's statute prohibiting civil arrest and submitted it to the Michigan Supreme Court with a detailed letter requesting expedited implementation. After receiving no response, the ACLU drafted a second letter and invited coalition partners to sign on. The letter was submitted with 27 signatories supporting the request in September 2025. (ACLU Attorneys Syeda Davidson, Nara Gonczigsuren Orantes, Miriam Aukerman, and Executive Director Loren Khogali; Susan Reed, Executive Director of MIRC.)

Monitoring New, Private Immigration Detention Center in Michigan. In June 2025 the North Lake Processing Center, an 1,800-bed immigrant detention center, opened in in Baldwin, Michigan. North Lake—which is the largest immigrant detention facility in the Midwest—is owned and operated by a private prison company called the GEO Group, which has a documented history of neglecting and abusing the people it detains and employs. GEO-run facilities have also denied detained immigrants access to attorneys. The ACLU of Michigan is deeply concerned about the health and safety of people detained at North Lake, as well as the role that North Lake will play in the federal government's extensive efforts to detain and deport immigrants in Michigan and across the country. We are closely monitoring North Lake and have submitted several Freedom of Information Act (FOIA) requests to learn more about the conditions at the facility. We are working closely with our partners to ensure that people at North Lake can access attorneys and information about how to contest their detention. (ACLU Attorneys Nara Gonczigsuren Orantes, Ewurama Appiagyei-Dankah, Ramis Wadood, and Miriam Aukerman).

LGBTQ RIGHTS

Protection for LGBTQ People Under Michigan Civil Rights Law. In 2019 the Michigan Department of Civil Rights (MDCR) began investigating two companies that refused to provide their services to LGBTQ people. The companies sued MDCR in state court, arguing that Michigan's Elliott-Larsen Civil Rights Act (ELCRA) prohibits discrimination based on sex but not based on sexual orientation or gender identity. The Michigan Court of Claims ruled that ELCRA does prohibit discrimination based on gender identity, but that it was bound by a 1993 Michigan Court of Appeals decision to rule that ELCRA does not prohibit discrimination based on sexual orientation. On appeal, the ACLU of Michigan, joined by national and state LGBTQ+ organizations, filed a friend-of-the-court brief with the Michigan Supreme Court, urging the Court to bypass the Court of Appeals and take up the case immediately to overrule the 1993 decision and hold that discrimination based on sexual orientation and gender identity are both forms of discrimination based on sex, and thus prohibited by ELCRA. The Supreme Court granted the request and allowed the ACLU to participate in oral argument in March 2022. In July 2022 the Court agreed with us and ruled that discrimination on the basis of sexual orientation is sex discrimination in violation of ELCRA. As a result of this decision, LGBTQ+ people in Michigan have some of the most comprehensive civil rights protections in the country against discrimination in employment, housing, education and public services and accommodations. In

March 2023 the legislature codified the decision, amending ELCRA's language to explicitly add the protected categories of sexual orientation and gender identity and expression. (*Rouch World LLC v. Michigan Department of Civil Rights*; ACLU Attorneys Jay Kaplan and Dan Korobkin; Cooperating Attorneys Leah Litman and Daniel Deacon of U-M Law School.)

LGBTQ Parents Cut Off From Their Children. Carrie Pueblo and her same-sex partner, Rachel Haas, decided to have a child together by artificial insemination, with Ms. Haas serving as the parent who would carry the child. At the time, Michigan law made it illegal for the couple to marry. The child, born in 2008, was raised by both mothers, but after the parents' relationship fell apart, Ms. Haas denied Ms. Pueblo all contact with their child. Ms. Pueblo filed suit in family court seeking shared custody and parenting time, but both the trial court and Michigan Court of Appeals held that because she is not the child's biological mother, she did not have standing. In May 2022 the ACLU of Michigan led a coalition of organizations in filing a friend-of-the-court brief urging the Michigan Supreme Court to hear the case, arguing that parents who were unconstitutionally denied the right to marry should be able to invoke a judicial doctrine known as "equitable parenthood" to seek custody and parenting time, and that when a same-sex couple uses assisted reproduction, legal parentage can be established for the non-birth parent under Michigan's assisted reproduction statute. The Court agreed to hear the case and allowed us to participate in oral argument in April 2023. In July 2023 the Court issued a ruling agreeing with our position, ruling that parents who were in a same-sex relationship and who would have married but for Michigan's unconstitutional prohibition on their marriage have standing to seek custody and parenting time. Importantly, the Court also said that Michigan's family law statutes must be read in a gender-neutral manner, which will protect both married and unmarried LGBTQ+ parents. In April 2024 the legislature codified much of the decision into law, passing a series of laws that provide for a presumption of parenthood for same-sex couples, regardless of marital status, which will provide greater acknowledgment of parent-child relationships in LGBTQ+ families. (*Pueblo v. Haas*; ACLU Attorneys Miriam Aukerman, Jay Kaplan, Dayja Tillman, and Dan Korobkin.)

Insurance Coverage for Medically Necessary Health Care. Michigan's Medicaid program contracts with private insurance companies to provide government-funded Medicaid services, and some companies have long resisted transgender patients' efforts to obtain coverage for gender dysphoria-related treatments, even when their medical providers have determined the treatments to be medically necessary. Beginning in 2018 the ACLU of Michigan represented transgender women in multiple administrative appeals challenging denials of coverage for gender confirmation surgery. Following our advocacy efforts, in September 2018 the Michigan Department of Health and Human Services (MDHHS) instructed Michigan Medicaid insurance programs to remove blanket exclusions of gender confirmation surgery from their policies, citing the nondiscrimination requirements of the Affordable Care Act, and our clients' administrative claims settled. Since then we have continued to represent transgender women in administrative appeals challenging the denial of coverage for facial feminization surgeries. The Michigan Department of Insurance and Financial Services (DIFS), Michigan's insurance regulatory agency, has resolved the vast majority of these appeals in favor of the patients, holding that insurance companies must apply the standard of care established by the World Professional Association for Transgender Health (WPATH), and under those standards facial feminization surgery was medically necessary for treatment of gender dysphoria. In April 2021 we appealed a contrary DIFS decision involving Molina Healthcare to the Ingham County Circuit Court, and

the case quickly settled. In November 2021, following continuing advocacy efforts, MDHHS issued an official policy directive requiring Medicaid providers to use WPATH standards to determine coverage for gender-confirming treatments and procedures. Despite this directive, in September 2022 we were forced to appeal an adverse DIFS ruling involving Blue Cross Blue Shield, and the case settled in July 2023. Since then, we have continued to appeal both private and Medicaid health insurers who have denied coverage for medically necessary surgical procedures to treat gender dysphoria. In most instances we have been successful at having these denials reversed, either by the health insurance companies themselves or by DIFS. (*Hudson v. Molina Healthcare of Michigan*; *Wismer v. Blue Cross Blue Shield of Michigan*; ACLU Attorneys Jay Kaplan and Dan Korobkin; Cooperating Attorney Gerald Aben of Dykema.)

Custody Dispute Involving Transgender Child. In Lapeer County, a child custody dispute arose involving an 11-year-old child who is transgender. The father did not accept his transgender daughter's gender identity, wouldn't use her new name or pronouns, wouldn't allow her to dress as a girl in his presence, and wouldn't consent to puberty-blocker medication even if recommended by a physician. This contributed to serious mental-health consequences for the child, including suicidal ideation and in-patient psychiatric care. The mother asked the court to award her full legal custody so that she can make decisions regarding her daughter's medical care, and so her daughter does not have to spend time with her father. The trial court denied the request, and the mother appealed. In December 2023 the ACLU of Michigan filed a friend-of-the-court brief in the Michigan Court of Appeals, joined by the Ruth Ellis Center and Stand With Trans. Our brief provided the court with an overview of the latest studies, best practices, and understandings among professionals regarding treatment and support for transgender youth. Specifically, we noted that parental and medical support for children who are transgender results in more positive health outcomes, whereas a lack of such support results in mental health decline, suicide, substance abuse, and other negative consequences. In April 2024 the Court of Appeals ruled that the trial court erred in failing to grant the mother's motion for sole legal custody so that she could make medical decisions in the best interest of the child, and also held that during parenting time the father must be prohibited from using the wrong name or pronouns, cutting his child's hair, forcing her to wear masculine clothes, or restricting the child's access to activities on the basis that they are perceived as feminine. The father did not appeal. This decision can be both helpful and instructive in child custody disputes involving parents who are trying to support their transgender children but are facing opposition by their former spouse. (*Riley v Graves*; ACLU of Michigan Attorneys Jay Kaplan and Dan Korobkin.)

Transgender Student Denied Access to School Bathrooms. An elementary school student in mid-Michigan came out as transgender when she was ten years old and began treatment for gender dysphoria. Although her name and pronouns were respected by her teachers and her peers, the school district prohibited her from using female restrooms that align with her gender identity, requiring her to use a single-user restroom in the school office. In April 2023 the ACLU of Michigan wrote to the school district on the student's behalf, notifying the district that prohibiting transgender students from using the restrooms that align with their gender identity and forcing them to use separate restrooms from everyone else is stigmatizing, degrading, and a violation of state and federal law. The district refused to change its position, however, and in September 2023 we filed a civil rights complaint on the student's behalf with the Michigan Department of Civil Rights. After a civil rights investigation of our complaint in which it was determined that the school district was violating Michigan's Elliott-Larsen Civil Rights Act, we

advised the school district in July 2024 that we planned to file a lawsuit unless the student was permitted to use the restrooms that correspond with her gender identity when she returned to school in the fall. The day before we planned to file suit the school district relented. In addition the ACLU of Michigan filed a complaint with the Michigan Department of Civil Rights on behalf of a transgender female fifth grade student in Fraser Public Schools who has presented and has been regarded as female by the district since she was in first grade. In April 2025, the district informed her mother that because of the Trump Administration's Executive Order, threatening to take away federal monies from school districts that support the "social transition" of transgender students, that the student could no longer access the girls' bathrooms and had to either use the boys bathrooms or a bathroom in the school office. We sent a demand letter to the school district and filed a complaint with the Michigan Department of Civil Rights arguing that the Executive Order did not alleviate the school district from its responsibility to ensure that students are not discriminated against based on their gender identity under Michigan's civil rights laws. The district reversed itself and for now the student can access female restrooms while our complaint is being investigated by MDCR. (ACLU of Michigan Attorneys Jay Kaplan, Syeda Davidson, Dan Korobkin, and Bonsitu Kitaba-Gaviglio; National ACLU Attorney Leslie Cooper; Cooperating Attorney Bryan Waldman of Sinas Dramis.)

Pronouns in the Courts. In December 2021 a Michigan Court of Appeals judge published an opinion in which he insulted transgender people and declared his refusal to "conform to the wokeness of the day" by respecting the pronouns with which they identify. Leading a coalition of organizations, the ACLU of Michigan wrote a letter to the Michigan Supreme Court in January 2022 urging the Court to take action to educate judges and ensure that our courts treat transgender people fairly and with respect. In January 2023 the Court published for public comment a proposed amendment to the Michigan Court Rules that would allow litigants and their attorneys to identify their pronouns in court papers and would require judges and other court personnel to use the correct pronouns, designated salutation, or name when addressing or referring to them. In March 2023 we submitted a detailed public comment urging the Court to adopt the new rule and testified in favor of the rule at a public hearing in June 2023. In September 2023 the Court adopted the rule, which took effect in January 2024. (ACLU Attorneys Jay Kaplan and Dan Korobkin.)

Federal Government Abandons Trans Workers and Their Allies. Transgender people were an immediate target for the Trump administration upon taking office as explicitly spelled out in an Executive Order declaring that it was the "policy of the United States to recognizes two sexes, male and female." To comply with the Executive Order, the Equal Employment Opportunity Commission (EEOC), which is the federal agency tasked with resolving employment discrimination claims, stopped investigating claims that involved transgender people. Further, it sought to withdraw from representation in all of the cases that the EEOC had filed on behalf of transgender plaintiffs under the prior administration. There were three such plaintiffs in Michigan—Asher Lucas, a transgender employee who was repeatedly bullied and harassed by a coworker, with management doing nothing to stop it, and Regina Zaviski and Savannah Nurme-Robinson, two of his coworkers who spoke out against the harassment. All three were fired by their employer after speaking out against the harassment. The EEOC had previously filed suit on their behalf, but reversed course under the new administration and sought to withdraw themselves from the case. Mr. Lucas was already represented by another attorney, but Ms. Zaviski and Ms. Nurme-Robinson were left scrambling to find legal representation. The ACLU

of Michigan intervened in the lawsuit on their behalf and worked alongside Mr. Lucas's attorney to reach a fair resolution for the case, which allowed it to settle in August 2025. (*EEOC v. Brik Enterprises Incorporated*, ACLU of Michigan Attorneys Syeda Davidson, Jay Kaplan, Bonsitu Kitaba-Gaviglio, and Dan Korobkin.)

OPEN GOVERNMENT

Secret Video of Prisoner's Death. In 2016 a Michigan prisoner died under suspicious circumstances; he was allegedly involved in an altercation with another prisoner, and prison guards shocked him with a taser. Spencer Woodman, an independent journalist who reports nationally on criminal justice issues, learned that the entire incident was captured on video and requested a copy of the footage under the Freedom of Information Act (FOIA). The Michigan Department of Corrections (MDOC) refused to release the video, claiming that its disclosure would somehow undermine prison security. In 2017 the ACLU of Michigan filed a lawsuit on Woodman's behalf, arguing that the state had no legitimate justification for keeping the video secret. During discovery, we learned that the MDOC staff has a policy of automatically denying all FOIA requests for videos, without even viewing the video in question to determine whether or how its disclosure would threaten security. In 2019 Michigan Court of Claims Judge Cynthia Diane Stephens ruled that MDOC's policy was illegal and ordered the state to turn over the video footage. However, the judge then slashed the ACLU cooperating attorneys' fees by 90% because the work was being done pro bono (i.e., without payment from the client), and we appealed. In 2021 the Court of Appeals ruled that we had only partially prevailed in the lawsuit. We appealed to the Michigan Supreme Court, which agreed to hear the case and in July 2023 ruled in our favor. By a vote of 5-2, the Court held that we had prevailed completely, and that attorneys' fees cannot be reduced based on the pro bono nature of the work. The case was then remanded for recalculation of attorneys' fees, and we settled for over $300,000. Despite this victory, MDOC continued to deny similar FOIA requests for video footage. Another independent journalist, Daniel Moritz-Rabson, was denied access to footage of an incident in which a prisoner was allegedly mistreated by a prison guard in retaliation for having published an article about poor prison conditions. Even after Moritz-Rabson brought the previous case to MDOC's attention, MDOC refused to release the video. In April 2024 we filed another FOIA lawsuit, MDOC turned over the video, and the case settled in September 2024 for attorneys' fees. (*Woodman v. Michigan Department of Corrections*; *Moritz-Rabson v. Michigan Department of Corrections*; ACLU Attorney Dan Korobkin; Cooperating Attorneys Robert Riley, Rian Dawson, Anna Transit, Marie Greenman, and Olivia Vizachero of Honigman.)

FOIA Delayed Is FOIA Denied. The purpose of Michigan's Freedom of Information Act (FOIA) is to provide transparency in government so that the people of Michigan can fully participate in the democratic process. But that purpose is thwarted if government officials do not produce requested documents in a timely manner. In Grand Rapids in particular, FOIA requests have been known to take over a year to fulfill, even when the amount of staff time needed to fulfill the request is only a few hours. In March 2023 the ACLU of Michigan submitted a FOIA request to the Grand Rapids Police Department that the department estimated would take only 2.25 hours to fulfill, but would not be processed for 8-10 months. After attempts to speed up the city's response time were unsuccessful, in September 2023 we filed a lawsuit seeking a ruling that the city's practices violated FOIA. In November 2024, the circuit court ruled in favor of the

City, essentially deciding that there is no time limit on how long a municipality can take to provide records sought under FOIA. The ACLU appealed, and the case is now pending in the Michigan Court of Appeals. (*ACLU of Michigan v. City of Grand Rapids*; ACLU Attorneys Miriam Aukerman, Dayja Tillman, and Dan Korobkin; Cooperating Attorneys Robert Riley, Benjamin VanderWerp, Lauren Babbage, and Jalen Farmer of Honigman LLP; and cooperating attorney Brad Springer.)

Access to Records About Immigration Detention. From 2019-2024, the ACLU of Michigan litigated a state court lawsuit challenging the Calhoun County Jail's refusal to disclose records related to immigrants in detained there under the Michigan Freedom of Information Act. Despite obtaining a unanimous victory at the Michigan Supreme Court, Calhoun County and other local jails that hold immigrants on behalf of ICE continued to withhold immigration detention records—all under the guise of an obscure federal regulation that classifies these records as the property of ICE. In January 2025 the ACLU of Michigan and the National ACLU filed a new lawsuit, this time challenging the regulation itself in federal court. The lawsuit alleges that federal immigration authorities do not have the authority to issue a regulation automatically deeming purely local records their exclusive property. The federal government filed a motion to dismiss in the case, which is currently pending a ruling from the court. (*ACLU of Michigan v. Calhoun County*; *ACLU of Michigan v. ICE;* ACLU Attorneys Ramis Wadood, Miriam Aukerman, Phil Mayor, and Bonsitu Kitaba-Gaviglio; ACLU National Attorneys My Khanh Ngo, Eunice Cho, Spencer Amdur, and Kyle Virgien.)

FOIA Requests by Email. Michigan's Freedom of Information Act (FOIA) was updated many years ago to clarify that FOIA requests may be submitted by email, and most FOIA requests are now submitted and processed in electronic form. In April 2024 the ACLU of Michigan emailed a standard FOIA request to Westphalia Township after receiving credible information that certain groups may have attempted to challenge the registrations of voters there. In response to our email, rather than providing the public records we had requested, the township clerk directed us to a dated FOIA policy, posted on the township's website, which purports to require that FOIA requests be submitted in a written, "nonelectronic" form. We advised the clerk that it would be illegal under state law to ignore or deny a FOIA request merely because it is submitted over email, but the clerk failed to respond. Westphalia's policy also contravenes the pro-disclosure purpose of FOIA by making it more difficult for people to get access to public records. In July 2024 we filed a lawsuit seeking both responsive documents and a declaratory judgment that the township's policy of rejecting electronic FOIA requests is unlawful. Shortly thereafter, in October 2024, Westphalia amended their FOIA policies to eliminate the unlawful restrictions on FOIA, disclosed all responsive documents, and agreed to a settlement agreement that included payment of attorneys fees. (*ACLU of Michigan v. Westphalia Township*; ACLU Attorneys Delaney A. Barker, Phil Mayor, and Dan Korobkin.)

The Right to Go to Court. "Standing" is the concept of who is allowed to bring a lawsuit and have a court decide if the government is acting lawfully or not. In recent decades, federal courts have often restricted standing, resulting in a denial of rights by denying people the ability to even be heard at all. Fortunately, Michigan's state courts follow a better rule, and are supposed to hear lawsuits and rule on them on the merits so long as the plaintiff who brings them has a "special interest" in the matter or will suffer a "special injury" for not doing so. During the 2022 election, the Republican Party sued the clerk of Flint, arguing that the clerk was not doing

enough to ensure a partisan balance amongst the volunteer poll workers staffing Flint's elections. Rather than rule on the case, the trial court threw it out of court because it found that the Republican Party lacked standing. In March 2024, the Court of Appeals agreed. In April 2024, the Republican Party filed an application for leave to appeal with the Michigan Supreme Court. Although we were skeptical about the underlying merits of the lawsuit, we firmly believe in the right of people to go to court and have their legal claims heard. We therefore filed an amicus brief in support of the Republican Party's appeal in November 2025. Approximately a week later, the Michigan Supreme Court agreed to hear oral argument in the case. Along with our partners at Promote the Vote and League of Women Voters, in February 2025 we filed another brief in support of the Republican's claim to have standing. In July 2025 the Michigan Supreme Court issued a decision agreeing with our view of standing and telling lower courts to actually determine if the lawsuit had merits. We have already relied on this decision in other lawsuits in which we are seeking to vindicate the rights of other Michiganders in response to attempts to slam the courthouse doors to litigants on the grounds of standing. (*Michigan Republican Party v. Donahue*; ACLU Attorneys Phil Mayor, Delaney Barker, and Dan Korobkin; Co-counsel Mark Brewer on behalf of the League of Women Voters and Promote the Vote.)

Police Department's Use-of-Force Policies. After George Floyd was killed by police in Minnesota, Amy Hjerstedt, on behalf of the Eastern Upper Peninsula League of Women Voters, requested a copy of the local police department's use-of-force policy to see if improvements could be made at the local level. The City of Sault Ste. Marie refused to disclose the full policy, redacting major portions. Ms. Hjerstedt filed suit under Michigan's Freedom of Information Act (FOIA) to get an unredacted copy. Even though many police departments post their use-of-force policies online, the trial court agreed with the city's argument that the reacted sections could be withheld. Ms. Hjerstedt appealed, and in August 2022 the ACLU of Michigan filed a friend-of-the-court brief in the Michigan Court of Appeals, arguing that public access to use-of-force policies is critical to robust debate about policing, and that FOIA was intended to make precisely this type of information available. In February 2023 the Court of Appeals agreed, holding in a published decision that the city's claimed exemptions did not apply, and that it must produce the unredacted use-of-force policy. The city sought leave to appeal in the Michigan Supreme Court, which in December 2023, in lieu of granting leave, reversed and remanded to the Court of Appeals with respect to one issue: whether use of force policies fall under the "staff manual" exemption of FOIA. In April 2024 we filed an additional friend-of-the-court brief arguing that simply including a document in a staff manual cannot be the basis for an exemption, and that in any event the public's interest in disclosure outweighs any interest the city has in not disclosing its use-of-force policy. In August 2024 the Court of Appeals issued another published opinion agreeing with our argument, reaffirming its previous decision, and ordering the police department to publicly disclose its use-of-force policy. (*Hjerstedt v. City of Sault Ste. Marie*; ACLU Attorneys Miriam Aukerman, Mark P. Fancher, and Dan Korobkin; Cooperating Attorneys Stephen van Stempvoort, Alise Hildreth, and Joslin Monahan of Miller Johnson.)

Can the State Hide Behind Governmental Immunity While Breaking the Law? In 2021, our partners at the Michigan Immigrant Rights Center (MIRC) filed a lawsuit against the Governor arguing that Michigan has been violating the law for decades by denying workers' compensation payments to undocumented workers who are injured on the job. The Governor sought to throw the lawsuit out on technical grounds, arguing that MIRC lacked "standing" to bring the lawsuit and that they were barred from doing so because they'd known for too long that the practice was

illegal, even though Michigan's government continues to engaged in the allegedly illegal workers comp denials, and even though MIRC alleged that they were continually injured by the illegal rule because they continuously had to pay to provide legal advice to impacted immigrant workers. Michigan's Court of Appeals accepted the Governor's argument and dismissed the lawsuit, concluding that she had immunity from being sued under the circumstances. MIRC appealed to the Michigan Supreme Court in July 2024. In October 2024 we filed an amicus brief in support of MIRC on behalf of the ACLU of Michigan, the National ACLU, and the Michigan Association for Justice. The Michigan Supreme Court agreed to hear argument in the case, and we filed another brief in support of MIRC in April 2025. Our briefs argue that the Court of Appeals was wrong to insulate the Governor from a lawsuit, and that principles of immunity can never protect government officials against a lawsuit that seeks only to enjoin ongoing illegal activity by those officials. Oral argument occurred in October 2025, and a decision is expected by summer 2026. (*MIRC v. Governor*; ACLU of Michigan attorneys Phil Mayor, Syeda Davidson, and Dan Korobkin; National ACLU attorney Julie Murray; Michigan Association for Justice attorney Eric Steinberg.)

PARENTAL RIGHTS

Termination of Parental Rights. The United States Supreme Court has long recognized that the right to family integrity is a fundamental liberty interest protected by the Constitution. For decades, experts in Michigan and elsewhere have bemoaned the frequency with which the state asks courts to permanently terminate parental rights in cases involving neglect and abuse. There are significant racial disparities in termination cases, and courts do not follow a consistent standard, often failing to treat termination as the last resort, to be used only when there is little hope of restoring and maintaining a healthy parent-child relationship. In January 2024 the Michigan Supreme Court agreed to take up two cases examining the legal standards for these situations, and the ACLU of Michigan joined the Juvenile Law Center in filing friend-of-the-court briefs asking the court to hold that strict scrutiny should apply and that courts therefore may not terminate parental rights unless doing so is the least restrictive means of furthering a compelling governmental interest in the welfare of the child. Unfortunately, in July 2024 the Court changed its mind and decided not to issue any rulings in the cases. (*In re Bates*; *In re Dailey*; ACLU Attorneys Dan Korobkin and Bonsitu Kitaba-Gaviglio; Co-counsel Riya Saha Shah, Courtney Alexander, and Marsha Levick of the Juvenile Law Center.)

PRISONERS' RIGHTS

Prisoner's Accommodations Revoked for Refusing Hormone Therapy. Bruce Parker, who is incarcerated by the Michigan Department of Corrections (MDOC), has been diagnosed with gender dysphoria and identifies as non-binary. Under MDOC policy, a special gender dysphoria review committee is required to assess each case and recommend treatment and accommodations to address medical needs and personal safety. It was initially decided that Parker would be housed only with other people who have gender dysphoria and would be permitted to shower in relative privacy, accommodations that reduce safety risks for people in prison who are gender non-conforming. Parker's accommodations were implemented successfully for six months but were then abruptly removed due to the fact that Parker does not wish to undergo feminizing

hormone treatment—a treatment that is common for people with gender dysphoria but by no means universal or medically required. In January 2024 Parker filed a lawsuit seeking to restore the accommodations, and in May 2024 the ACLU of Michigan joined other attorneys in volunteering to provide representation pro bono. We are arguing that it violates Parker's constitutional rights to condition health and safety accommodations on their willingness to take hormone therapy. In October 2024, Judge Judith Levy denied the defendants' motions to dismiss the case for failure to exhaust administrative remedies, but in March 2025, the defendants filed another motion to dismiss the case, which remains pending. (*Parker v. MDOC*; ACLU Attorneys Syeda Davidson, Jay Kaplan, Bonsitu Kitaba-Gaviglio, Dan Korobkin; Co-counsel Debra Freid of Freid, Gallagher, Taylor, & Associates; John Philo, Tony Paris, and Elizabeth Jacob of the Sugar Law Center for Economic and Social Justice.)

Protecting the Rights of Incarcerated Parents to Hug Their Children. Among the many societal harms of our prison and jail system is the damage that having an incarcerated parent wreaks on the family and children of the person on the inside. Traditionally, the most important way to relieve this harm is through family visits where the incarcerated person can see their family in person and hug their child. Decades of research shows that these visits promote the parent-child bond and result in better social outcomes for the children, make jails and prisons safer by providing critical social supports to the people housed there, and promote rehabilitation when people are released from incarceration by preserving the family ties essential to their reintegration into society. Unfortunately, in recent years, some jails have stopped allowing in-person family visits, and instead now have a policy of family visits only through electronic teleconferencing provided by for-profit corporations that kick back significant chunks of their profits to pad jail budgets. Such visits are often plagued by glitchy internet connections and come at significant expense to families already suffering from the economic impact of having a loved one incarcerated. As such, research shows that replacing in-person visits with teleconference calls does not accomplish any of the benefits of family visitation. In March 2024, our partners at Civil Rights Corps, Public Justice, and the law firm of Pitt McGehee filed lawsuits in Genesee County and St. Clair County against two jails (and the associated telecom companies selling such services) who implemented these inhumane policies, arguing that the policies violated both parents' and children's fundamental right under the Michigan Constitution to associate with each other. The circuit courts in both counties dismissed the cases, and the plaintiffs appealed to the Michigan Court of Appeals. In January 2025, we led efforts to file an amicus brief in the St. Clair County case, explaining how these policies caused immense harm to families and to the public at large. Our brief was joined by eighteen other organizations and individuals from across the political spectrum: the Cato Institute, the American Federation of Teachers Michigan, the Criminal Law and Children's Law Sections of the State Bar of Michigan, the Electronic Frontier Foundation, the Michigan Center for Youth and Justice, the Detroit Justice Center, Safe & Just Michigan, the Michigan Coalition for Human Rights, the Michigan State Planning Body, the National Lawyers Guild Michigan-Detroit Chapter, Black Lives Matter Port Huron, Street Democracy, Prison Policy Initiative, Surveillance Technology Oversight Project, Inc., Dr. Rebecca Shalger, Prof. Margo Schlanger, and Prof. Vivek Sankaran. We filed a similar brief in August 2025 in the Genesee County case. Briefing has closed and a decision is pending. (*M.M. v. King* [St. Clair County] and *S.L. v. Swanson* [Genesee County]; ACLU Cooperating Attorney Prof. Paulina Arnold; ACLU Attorneys Phil Mayor, Dan Korobkin, and Bonsitu Kitaba-Gaviglio. Numerous counsel from our co-amici not listed for brevity.)

Mental Health Treatment Not Jail and Brutality. In August 2025, the ACLU of Michigan filed a federal lawsuit on behalf of Christopher Gibson, a Black man who was pepper sprayed, tasered and brutalized in a jail cell by a group of more than a dozen Warren Police officers. The attacks resulted in Mr. Gibson's hospitalization for injuries to his face, muscular system and kidneys. Mr. Gibson and a family member repeatedly informed officers that he was experiencing a mental health emergency and required immediate psychiatric treatment, but officers instead subjected him to abuse. Found wandering the streets lost, confused and coatless on a winter night, Mr. Gibson was taken into custody because of outstanding warrants related to identity theft. The lawsuit alleges that Warren police officers violated Mr. Gibson's Fourteenth Amendment rights by denying him needed psychiatric care and by using excessive force while he was in their custody. It also alleges that officers violated federal laws designed to protect people with disabilities. (*Christopher Gibson v. City of Warren, et al.,* ACLU Attorneys Mark P. Fancher, Syeda Davidson, and Bonsitu Kitaba-Gaviglio.)

PRIVACY AND TECHNOLOGY

Facial Recognition Technology Leads to False Arrest. The use of facial recognition surveillance technology has been shown to be inaccurate, racially biased, and a threat to personal privacy. In 2020 Detroit police officers arrested Robert Williams on his front lawn, in front of his wife and two young daughters, on charges that he had stolen watches from a Shinola store in Detroit. The arrest was based almost entirely on a facial recognition scan from security footage at the Shinola store, but it was dead wrong: Mr. Williams was not the man in the security footage and was nowhere near the store at the time of the theft. In 2021 the ACLU filed a federal lawsuit against the Detroit Police Department, alleging that the officers involved violated Mr. Williams' rights under the Fourth Amendment and the Elliott-Larsen Civil Rights Act by arresting him on the basis of this flawed technology. Discovery in the case exposed systemic and comprehensive failures to use facial recognition technology responsibly and to train detectives in basic investigatory techniques and legal requirements. Meanwhile, in a second lawsuit brought by private counsel on behalf of another man falsely arrested under similar circumstances, we filed a friend-of-the-court brief in April 2023 highlighting the dangers of facial recognition technology and the failures we had uncovered during discovery. In June 2024 we entered into a settlement agreement, enforceable by the federal court for four years, that converts the Detroit Police Department from one of the nation's worst abusers of facial recognition technology into a leader in imposing guardrails that limit possible abuses. Under the settlement, the police are prohibited from conducting lineups based solely on facial recognition leads, a procedure that creates a rigged lineup and lies behind each wrongful arrest using this technology in Detroit. The settlement also requires facial recognition examiners to disclose critical information about their searches (and the factors rendering them less reliable) to detectives, courts, and attorneys—information that can ensure each of those actors are aware of, and can act upon, exculpatory information arising from such searches. The settlement also requires training for police officers, including on how the technology misidentifies people of color at higher rates than other people. (*Williams v. City of Detroit*; *Oliver v. City of Detroit*; ACLU of Michigan Attorneys Phil Mayor, Ramis Wadood and Dan Korobkin, and legal interns Arshi Baig and Simon Roennecke; National ACLU Attorney Nathan Freed Wessler; Co-counsel Michael J. Steinberg of U-M Law School, with student attorneys Eilidh Jenness, Ben Mordechai-Strongin, Jeremy Shur, Deborah Won, Rihan Issa, Camelia Metwally, Seth Mayer, Jonathan Barnett, Lauren Yu, Will Ellis, Mickey

Terlep, Brendan Jackson, Keenan McMurray, Julia Kahn, Lacie Melasi, Collin Christner, Ewurama Appiagyei-Dankah, and Nethra Raman.)

More Wrongful Arrests Because of Facial Recognition in Detroit. In August 2023 we learned of yet another facial-recognition driven false arrest in Detroit following a nearly identical pattern—this time resulting in the arrest of an 8-month pregnant woman in front of her children for a carjacking crime she did not commit. This incident resulted in the filing of a separate federal lawsuit by private counsel in August of 2023. In December 2024 we filed an amicus brief relating to a motion to dismiss filed by Detroit in the case, explaining to the court the many ways that facial recognition was misused in the case. In April 2025 we participated in oral argument on that motion. In August 2025 the court dismissed the lawsuit, but its opinion contained several pages acknowledging our arguments and the problems with the use of facial recognition in criminal investigations and convictions. However, the court was unable to reach a ruling based on these arguments because the plaintiff's counsel told the court that he was not relying upon them. (*Woodruff v. City of Detroit*; ACLU of Michigan Attorneys Phil Mayor, Ramis Wadood and Dan Korobkin, National ACLU Attorney Nathan Freed Wessler; Co-counsel Michael J. Steinberg of U-M Law School.)

Eyes in the Skies. The United States Supreme Court has repeatedly warned that as surveillance technologies become more advanced and invasive, and cheaper to use, the Fourth Amendment must continue to protect our personal privacy from unreasonable searches by government officials. In recent years, law enforcement agencies have increasingly relied on small, unmanned drones to hover above private property and spy on us from above. In Long Lake Township, local officials hired a drone operator to repeatedly fly over a private home and collect photographic evidence that its residents were violating a zoning ordinance. The trial court allowed the photographs to be admitted into evidence against the homeowners, ruling that the drone surveillance was not a search within the meaning of the Fourth Amendment, and the Michigan Court of Appeals affirmed. In May 2023 the Michigan Supreme Court announced it would hear arguments in the case. In September 2023 the ACLU, along with the Mackinac Center for Public Policy, filed a friend-of-the-court brief arguing that repeated and targeted low-flying drone surveillance of a private home and its surroundings violates the Fourth Amendment when conducted without a warrant, and that the evidence collected should be suppressed. Unfortunately, in May 2024 the Court decided that the exclusionary rule does not apply in civil cases, and declined to reach the merits of the Fourth Amendment question. (*Long Lake Township v. Maxon*; ACLU of Michigan Attorneys Phil Mayor and Dan Korobkin; National ACLU Attorneys Brett Kaufman and Nathan Freed Wessler; Co-counsel Patrick Wright of the Mackinac Center for Public Policy.)

RACIAL JUSTICE

Home Purchase Scheme Targeting Black Homebuyers. In the wake of the housing crash of 2008, Black communities have been targeted by predatory "land contract" schemes that advertise the dream of home ownership but are structured to fail. One company, Vision Property Management, engaged in predatory lending schemes across the United States by tricking consumers into signing rent-to-own contracts carrying the promise of homeownership but none of the rights. Vision purchased over 1,000 dilapidated properties in Michigan and sold them to

unsuspecting homebuyers. Vision's contracts obscured the true cost of buying and repairing the home, the interest rate, and the term of the loan; made it nearly impossible for buyers to achieve homeownership; and allowed Vision to avoid responsibility for upkeep. Vision also marketed its product primarily to low-income Black consumers. In September 2020 the ACLU of Michigan, Legal Defense Fund (LDF), National Consumer Law Center (NCLC), and Michigan Poverty Law Program (MPLP) filed a federal class action lawsuit against Vision and its main funder Atalaya on behalf of lower-income and Black Michigan consumers who were the primary targets of Vision's predatory home purchase scheme. The lawsuit sets forth claims under the Federal Fair Housing Act, Truth in Lending Act, Equal Credit Opportunity Act, and various state laws. In August 2021 Judge Sean Cox denied Atalaya's motion to dismiss, allowing the case to proceed. Following extensive discovery, in August 2022 Atalaya filed a motion for summary judgment. Meanwhile, upon learning that a new Vision lender had entered the picture and was selling off homes occupied by prospective class members, in December 2022 we filed a motion for a preliminary injunction asking the court to prohibit the sales without court approval. In October 2023 Judge Shalina Kumar granted Atalaya's motion for summary judgment, dismissing the race-based discrimination claims. But in April 2024 the court partially granted Plaintiffs' motion for reconsideration, reinstating the homeowners' intentional discrimination claims. After months of negotiations, the case finally settled in October 2024. The Court held a fairness hearing on the class settlement and ultimately approved a resolution which would give anyone in the home time to either buy the home and obtain the deed in their name, or sell the home and keep the proceeds. For class members who were previously evicted or left the home, they would be entitled to a share of money damages. The settlement ensures that those promised a pathway to homeownership can achieve it or set themselves up for a better future. (*Henderson v. Vision Property Management*; ACLU Attorneys Bonsitu Kitaba-Gaviglio and Dan Korobkin; Co-counsel Coty Montag, Jennifer Holmes, Alexandra Thompson, Tiffani Burgess, and Pilar Whitaker of LDF, Stuart Rossman, Sarah Mancini, and Shennan Kavanagh of NCLC, and Lorray Brown of MPLP.)

Racial Profiling by the Michigan State Police. In 2016 the Michigan State Police (MSP) disclosed that troopers are evaluated in part on how many traffic stops they make. The ACLU of Michigan wrote to MSP's director urging that this policy be terminated because of the risk that it would lead to racial profiling. Because of the policy, troopers with an insufficient number of stops are more likely to target for groundless or arbitrary stops individuals whom they perceive to be powerless to effectively complain, which disproportionately includes people of color. Additionally, we inquired about whether troopers record the racial identities of drivers stopped, and whether there are procedures in place to monitor racial patterns of stops and to remedy practices that are racially discriminatory. In response to the ACLU's concerns, MSP acknowledged that it lacked reliable information about the race of the drivers it stops, and in 2017 it revised its policies to require that state troopers record that information. Following the change in policy, we used Freedom of Information Act requests to obtain records reflecting the racial identities of drivers stopped. These records revealed disturbing racial patterns of stops made by certain members of a unit charged with the task of drug interdiction. Extensive efforts to persuade MSP to engage an expert to diagnose the reasons for the racial disparities resulted only in the agency engaging consultants to document the existence of already known disparities. Consequently, in June 2021 we filed a federal lawsuit on behalf of Camara Sankofa and Shanelle Thomas, an African American couple stopped by MSP troopers without cause, made to exit their vehicle, subjected to K-9 and manual searches, and interrogated about narcotics. After 90

minutes of the unconstitutional detention, they were allowed to leave without a ticket or even a warning. In October 2022 the lawsuit was settled after MSP finally engaged an independent expert to inquire into the reasons for racial disparities in traffic stops. The settlement agreement allowed the ACLU to communicate with the experts and receive a copy of their analysis. Damages were paid to Sankofa and Thomas, and attorneys' fees were paid to the ACLU. In December 2023 the final report of the experts was issued, and it included a wide range of damning conclusions about MSP practices including, among other things, that agency policies encourage unconstitutional extended detention of stopped drivers, inadequate supervision leads to disproportionate patrolling of areas with high minority populations, traffic stops are often used as the primary form of crime prevention, and various policies contribute to racial disparities in traffic enforcement. (*Sankofa v. Rose*; ACLU Attorneys Mark P. Fancher and Dan Korobkin; Cooperating Attorney Nakisha Chaney of Salvatore Prescott.)

Water Shutoffs in Detroit. In 2014 the Detroit Water and Sewage Department (DWSD) commenced the largest residential water shutoff in U.S. history and terminated water service to over 20,000 Detroit residents for lack of payment, without regard to residents' health needs or ability to pay. DWSD's internal documents revealed that due to its sloppy billing practices, it had not charged many customers for sewer service for several years. DWSD demanded a lump sum payment from customers for those charges which many of the city's impoverished residents could not afford to pay. Other documents also revealed that residents with delinquent accounts were billed for charges incurred by previous tenants. The ACLU of Michigan joined a lawsuit that sought to restore water service to the city's residents and stop future shutoffs, but in 2016 the Sixth Circuit affirmed the lower courts' dismissal of the case. Advocacy resumed in 2018 in response to media reports of plans to shut off the water of 17,000 households. In 2019 the ACLU and a coalition of attorneys unsuccessfully petitioned the Michigan Department of Health and Human Services, and then Governor Whitmer, to declare a public health emergency and impose a moratorium on shutoffs to prevent the spread of disease. Then, an investigation by our partners at the Legal Defense Fund (LDF) revealed dramatic racial disparities in water shutoffs, as they are far more likely to occur in majority-Black neighborhoods than in neighborhoods where Blacks are less than 50% of the population. In July 2020 the coalition filed a new lawsuit against the Governor and the City of Detroit alleging that the water shutoffs violate due process, equal protection, the Fair Housing Act, and state law. In August 2020 the defendants filed motions to dismiss, which remain pending. Meanwhile, in a purported response to the Covid-19 pandemic, the city initiated a self-imposed moratorium on water shutoffs. In December 2022, as the moratorium was set to expire, the ACLU and its partners filed a motion for a preliminary injunction against resumption of shutoffs. While a decision is pending, the city has refrained from resumption of shutoffs as it has negotiated with the ACLU revisions to its new income-based affordability plan, which is a response to long-time demands by the ACLU and other water affordability advocates. The plan has encouraging features that include, among other things, forgiveness of unpaid debts. In 2025 the case remained pending. (*Lyda v. City of Detroit*; *Taylor v. City of Detroit*; ACLU Attorneys Mark P. Fancher, Dan Korobkin, and Bonsitu Kitaba-Gaviglio; Co-counsel Alice Jennings of Edwards & Jennings; Coty Montag, Monique Lin-Luse, Santiago Coleman and Jason Bailey of LDF; Lorray Brown, Melissa El-Johnson, and Kurt Thornbladh.)

Racially Hostile Work Environment in the Detroit Police Department. In 2017 Detroit Police Chief James Craig was provided with the report of the Committee on Race and Equality

(CORE), a special investigative committee he had established in response to complaints of discrimination within the department. The report found that high-ranking command staff had engaged in racial discrimination, intimidation, and retaliation, that the department had a "racial problem," and that racism was directed from command staff to the rank and file. Chief Craig rejected the findings of the report, however, and suspended CORE's work. Just days later, Johnny Strickland, an African American police officer who had been with the department for ten years, was confronted, accosted, handcuffed and detained without cause by several white officers. Officer Strickland was off duty and inadvertently entered a suspected crime scene under investigation. Although Strickland identified himself as a police officer, one white officer continually screamed profanities in Strickland's face and sarcastically ridiculed his tenure on the police force, calling him "stupid," "dumb," and an "idiot." Another white officer purposely tightened handcuffs in order to cause injury, and still another conducted an unauthorized, unjustified K-9 search of Strickland's vehicle. In 2018 the ACLU of Michigan filed a federal lawsuit on Officer Strickland's behalf, alleging racial discrimination, a racially hostile work environment, and retaliation. As part of our discovery in the case, the court ordered Chief Craig to sit for a deposition. In 2019 Judge Nancy Edmunds dismissed the lawsuit, ruling that there was not enough evidence of discrimination, racial hostility, and retaliation to proceed with the case. In 2021 the Sixth Circuit reversed, ruling that the retaliation and excessive force claims should proceed to trial. The case went to trial in December 2022, and the jury returned a verdict in Strickland's favor, awarding him damages in the amount of $150,000. In November 2023 the court denied the city's motion to set aside the verdict, and in December 2023 the city appealed to the Sixth Circuit. In November 2024, the appellate court affirmed the jury's finding in favor of Officer Strickland on both his retaliation and excessive force claims. (*Strickland v. City of Detroit*; ACLU Attorneys Mark P. Fancher, Dan Korobkin, and Syeda Davidson; Cooperating Attorney Leonard Mungo.)

Police Brutality Downriver. In October 2021 the ACLU of Michigan filed a complaint with the U.S. Department of Justice, urging its Civil Rights Division to investigate the Taylor Police Department for racially biased policing and its excessive use of force. Our complaint followed years of investigating reports from multiple sources that the police department had become one of the most violent and lawless in the state. Taylor is in what is referred to as the "downriver" region near Detroit. It is 78 percent white and 16 percent Black; nearly 25 percent of the population is under the age of 18, and 11 percent are below the poverty line. Taylor's police department employs 75 officers, but the first African American officer was not hired until 2012. Our complaint highlighted 20 instances of excessive force, punishment of citizens for what is sometimes called "contempt of cop," unlawful use of tasers to force compliance with police orders, racially disparate hostile conduct, waivers of liability induced by blackmail over criminal charges, and hostile, incompetent leadership. We were notified that our petition was referred to the Criminal Section of the Justice Department's Civil Rights Division for review. In July 2023 we directed a Freedom of Information Act request to Taylor to obtain records that might shed light on the police department's conduct since 2021 when it was reported to the Department of Justice, but the city refused to turn over any of the requested records. In October 2023 we filed a lawsuit to enforce the provisions of the Freedom of Information Act that require the disclosure of requested documents. In September 2024 Wayne County Circuit Judge Dana Hathaway dismissed our lawsuit. An appeal of the dismissal is pending. (*ACLU of Michigan v. City of Taylor*; ACLU Attorneys Mark P. Fancher and Dan Korobkin.)

Jaywalking While Latine. In 2019 the ACLU of Michigan filed a complaint with the Michigan Department of Civil Rights (MDCR) based on the discriminatory treatment by the Grand Rapids Police Department (GRPD) of Jesus Yanez, a then 15-year-old Latine youth. The teen and his friend were walking on a quiet residential street in Grand Rapids when a police officer approached them with his hand on his holstered gun, told them to put their hands on their heads while he checked if they had warrants, and then, when the teens tried to leave, drew his gun on the youths. Our complaint coincided with several other high-profile incidents of racial profiling by GRPD officers, and community outrage over such selective enforcement of jaywalking laws against children of color helped spur demands for police reform. MDCR, after holding several listening sessions in Grand Rapids, announced an official investigation into systemic racism by the GRPD. The case filed by Yanez remains unresolved, and in July 2023 MDCR initiated litigation against Grand Rapids to compel the city to respond to requests for information needed for the agency's investigation. In response, the City of Grand Rapids initiated its own lawsuit against MDCR seeking a ruling that a three-year statute of limitations governs MDCR investigations, and therefore the Yanez investigation along with others must be terminated. In August 2023 we filed a friend-of-the-court brief arguing that Grand Rapids' statute-of-limitations theory is invalid. The brief explains that MDCR decisions about whether to issue charges of discrimination are made after the agency has conducted independent investigations that include consideration of information provided by parties accused of civil rights violations. The practical implications are that a three-year limitation on charging decisions as urged by Grand Rapids would be impractical, if not unworkable—particularly in cases where the accused party is uncooperative and deliberately delays the investigation until the limitations period has run. The brief also notes the challenges faced by marginalized individuals who lack the resources needed to vindicate their rights and that MDCR provides such individuals opportunities to have their complaints fully investigated and often resolved in ways that they regard as just. In April 2024 the trial court dismissed Grand Rapids' lawsuit on jurisdictional grounds, and Grand Rapids appealed. In October 2024 the ACLU filed another friend-of-the-court brief in the Court of Appeals that was limited to the statute of limitations issue. (*Michigan Department of Civil Rights ex rel. Ayala v. City of Grand Rapids; City of Grand Rapids v. Michigan Department of Civil Rights*; ACLU Attorneys Mark P. Fancher, Dayja Tillman, Miriam Aukerman, Elaine Lewis, and Dan Korobkin; Cooperating Attorney Anthony Greene.)

Racial Harassment in Croswell-Lexington Schools. Under Title VI of the Civil Rights Act of 1964, schools receiving federal funds may not engage in racial discrimination in their programs or services, which includes racial harassment of students by their peers if the school knows of the harassment and fails to take adequate measures to stop it. C.M., a student in the Croswell-Lexington School District, faced egregious racial harassment from her peers, and she sued the school district for failing to properly address the problem. The district court dismissed her lawsuit, ruling that the school district was not liable for the harassment because it suspended the wrongdoers. In August 2024 the ACLU of Michigan filed a friend-of-the-court brief in the Sixth Circuit arguing that schools should be required to consider responses other than disciplinary measures to satisfy their Title VI obligations. In this case, although the school district had ample tools at its disposal to address and combat the racially hostile environment C.M. experienced, the district failed to try those remedies and instead relied on suspensions that they knew were ineffective at stopping the harassment. Our brief laid out in detail various options the school district could have employed, including trainings, restorative interventions, victim-support measures, culturally relevant curriculum changes, and systems to track the effectiveness of their

policies and practices. In August 2025, the Sixth Circuit issued a decision finding that the school had done all that was required under federal law when it learned of the racial harassment and that no additional actions were required. The court acknowledged but did not decide the case under the less burdensome and more protective standard under Michigan's civil rights laws. (*Malick v. Croswell-Lexington District Schools*, ACLU Attorneys Bonsitu Kitaba-Gaviglio, Mark P. Fancher, and Dan Korobkin.)

Discriminatory Questioning by Border Patrol. In February 2024 a Michigan-based doctor who is Muslim was returning to Detroit from an emergency medical mission in Gaza and was detained by border patrol officers at the airport for nearly five hours and interrogated extensively about the purpose of his trip. They asked him numerous inappropriate questions that appeared to be motivated by his religious and racial background, such as questions about his personal opinion of the Israeli military's operation in Gaza, his political affiliations and beliefs, and his personal background and relationships. The officers also seized and searched the doctor's phone under false pretenses. The doctor was eventually released from custody, but he was removed from the TSA's Global Entry program without explanation. In June 2024 the ACLU of Michigan, joined by the Michigan chapter of the Council on American-Islamic Relations (CAIR), filed a request for U.S. Customs & Border Protection to reconsider the removal and a civil rights complaint with the U.S. Department of Homeland Security to seek accountability for the doctor's treatment. In January 2025, President Donald Trump began his second term. Shortly after his term began, Trump effectively closed DHS's civil rights department by gutting its staff. The reconsideration request was denied, and the complaint was not taken up. (ACLU Attorneys Ramis Wadood and Phil Mayor; Co-counsel Amy Doukoure of CAIR Michigan).

Racial Disparities in Discipline of Black Judges. For many years, a cloud of controversy has hovered above the Judicial Tenure Commission—the agency responsible for investigating wayward judges—because of perceptions and suspicion that Black judges are more likely to be targeted for investigation and recommended penalties than white judges. Although most of the agency's records and work are secret, those records that are made public reflect that Black judges are far more likely to be targeted by the Commission than their white colleagues. In early 2023 the Association of Black Judges of Michigan, the Black Women Lawyers Association of Michigan, and the Detroit Branch NAACP requested that the Michigan Supreme Court arrange for an audit of the Commission. In April 2023 the ACLU of Michigan wrote to the Supreme Court to express its support for such an inquiry. The letter stated in part: "Our interest in an examination of the Commission is not based on independent knowledge of discrimination in specific cases. Rather, we are aware of continuing questions, concerns, accusations and anecdotes about race and the Commission that have been voiced over the course of many years. The confidentiality of the Commission's records and the general inaccessibility of the body's proceedings make it difficult for concerned individuals and organizations like ours to verify or investigate the allegations that we receive." The letter urged that the audit be conducted by persons with expertise in institutional racism and implicit bias, because if members of the Commission are not engaging in conscious, purposeful racial discrimination, there may be institutional culture and unconscious biases that contribute to discriminatory outcomes. In June 2023 the Judicial Tenure Commission denied any wrongdoing but announced that it would seek an independent audit in light of the controversy and requests. The audit was conducted by the National Center for State Courts (NCSC). In the first phase of NCSC's work, it was determined that there were racial disparities not favorable to Black judges with respect to the number of

grievances filed; the number of grievances that proceeded to full investigation; and the likelihood that grievances would be resolved by public censure. The second phase of the project employed both a quantitative and qualitative approach. The resulting report issued in 2025 stated: "Given the full investigation finding, the persistence of racial differences in public outcomes after controlling for grievance characteristics and the perception of inequity in the process by some stakeholders, it is worth considering how biases may play a role in the JTC process." The ACLU wrote to the Michigan Supreme Court suggesting the engagement of experts who are capable of answering the questions the report does not answer. Specifically, to what extent does bias impact the work of JTC staff and others? Are there measures, policies or practices that might potentially minimize the impact of bias on the JTC's work? The ACLU continues to monitor this ongoing review. (ACLU Attorneys Mark P. Fancher and Dan Korobkin.)

Multicultural Curriculum as Remedy for Hostile School Environment. In April 2021 high school students in Traverse City created a racist Snapchat group titled "Slave Trade" in which the students exchanged photos of Black students while others placed bids for them. The group chat also became a platform for abhorrent discussions about killing a member of the LGBTQ+ community and calls for the genocide of Black and Jewish people. In response, the school board for the Traverse City Area Public Schools (TCAPS) fast-tracked an antiracism resolution that acknowledged, in addition to other things, the need for multicultural education in the district. After a draft of this resolution was presented to the board in May 2021, there was a strong, negative reaction to the draft by elements of the community, and it is suspected that individuals from outside of the community who are part of the national right-wing crusade to remove "critical race theory" from the schools reacted as well. Succumbing to the pressure, the board revised the antiracism resolution, and the resulting resolution in July 2021 eliminated the most important provisions concerning school curriculum and other features that might have a remedial impact on the school district's racial climate. In the aftermath of the controversy, the ACLU of Michigan has monitored and investigated the racial environment in the school district. While a school board has authority to use discretion in the adoption of resolutions and policies, the manner in which that discretion is exercised can expose the district to liability for violation of federal and state antidiscrimination laws. Specifically, while a school district will not be liable for students' spontaneous, unanticipated racial misconduct regardless of how egregious it might be, if school officials have actual knowledge of an ongoing pattern of severe and pervasive racial harassment, and they are "deliberately indifferent" to that conduct and do nothing to address it, they may be liable. In addition, if school officials adopt effective remedial measures, and then make conscious decisions to discontinue them, courts might construe such as evidence of intent to discriminate. Following the ACLU's investigation which included a review of records received from the school district pursuant to the Freedom of Information Act, it was determined that the school district continues to experience significant racial tensions highlighted by documented incidents of racial bullying and harassment. In August 2024 we sent a letter to the superintendent advising of facts and circumstances that might be regarded as grounds for liability, and encouraging the district to address its ongoing problems by adopting or modifying a multicultural curriculum that will allow students to gain knowledge of different geographical histories, cultures, languages, religions, politics, norms, and values that in turn will increase respect among the student population. The superintendent responded favorably to the letter and is assessing the curriculum with the ACLU's partner organizations, the North Star Alliance for Justice and MI ALMA. (ACLU Attorneys Mark P. Fancher and Delaney Barker.)

Questioning Competence or Questioning Race. Results of a 2025 poll taken of Michigan State Police (MSP) troopers purportedly reflected a high degree of dissatisfaction with the leadership of Col. James F. Grady, II, the current director of the Michigan State Police. In the aftermath, the Michigan legislature's House Oversight Committee convened hearings and inquiries regarding Col. Grady, who is African American. Without speaking on Col. Grady's behalf, the ACLU of Michigan wrote a letter to committee members suggesting that although a number of factors were cited as the reasons for troopers' lack of confidence in MSP leadership, the ACLU urged frank consideration of the possibility that the troopers' reactions were driven at least to some degree by the current widespread practice of questioning the competence of those tagged with the label "DEI hire." This is a code word often derogatorily applied to people of color who occupy positions of authority and who are branded as incompetent without regard for their actual credentials and performance. The ACLU also encouraged inquiry into whether and to what degree the troopers' responses were a reaction to any policy changes that might have been prompted by litigation filed against MSP by the ACLU on behalf of an African American couple. The letter urged the committee to consider whether troopers resented any measures that may have been taken to reduce the occurrence of racial profiling and other forms of racial discrimination. (ACLU Attorney Mark P. Fancher.)

Neglect of Tenants in Housing Complex. Without making accusations or allegations of improper business practices, the ACLU of Michigan contacted the Department of Housing and Urban Development (HUD) after receiving complaints from a representative of tenants of the Kamper Stevens apartment complex in Detroit. Many of the tenants are African American and elderly and there were complaints about problems related to security, maintenance, and pest control that tenants claim were not present when a predecessor African American management firm maintained the premises. The ACLU of Michigan urged HUD to investigate to determine whether the tenants' complaints were valid, and if so whether the successor management firm's approach to managing Kamper Stevens significantly differs from its management of other properties, and if so whether there was racial discrimination that violates the Fair Housing Act. (ACLU Attorney Mark P. Fancher.)

Improperly Going Beyond the Traffic Stop. The ACLU of Michigan expressed concern about a traffic stop by Michigan State Police (MSP) that occurred during October 2024 involving Dakarai Larriett, an African American gay man. According to one media report, Larriett was supposedly pulled over on suspicion of operating a vehicle while impaired. Thereafter he claimed that he was subjected to racial and homophobic slurs. He also alleged that while he was being booked, he was accused of smuggling drugs in his body. Larriett claimed officers forced him to defecate in a toilet exposed to public view, and they shouted "Don't flush!" In a letter to the Michigan State Police director the ACLU of Michigan stated: "…because of recent internal and external examination of the policies and culture of MSP we have had hopes that troopers' interactions with members of the public will yield fewer accusations of serious misconduct." The reference was to the ACLU case of *Sankofa, et al. v. Rose, et al.* Out of that case came a comprehensive report on MSP policies and practices along with a number of recommendations that, if followed, would hopefully have prevented this occurrence, or even the perception of misconduct. Mr. Larriett's allegations implicated several issues that were the subject of the report, but of special concern was that, according to Mr. Larriett, his encounter with the troopers somehow drifted from a stop for suspicion of impaired driving to a full-scale investigation of

suspected drug smuggling. A major concern in the *Sankofa* case was the apparent perception by many troopers that "going beyond the stop" is not only lawful, but also good police work. The report explained that while some MSP executives regarded going beyond the stop as an opportunity to enhance positive community perceptions of MSP, "…in discussing the concept of 'going beyond the stop' with troopers and sergeants, they universally explained that the concept applies solely to crime enforcement." The ACLU's letter expressed interest in whether, since the issuance of the report, there had been new training developed regarding going beyond the stop. (ACLU Attorneys Mark P. Fancher and Jay Kaplan.)

Racially Hostile School Environment in Hartland Schools. In 2021, Tatayana Vanderlaan was a Black high school student in the Hartland Consolidated School District. In a lawsuit against the school district, she alleged that white students called her "moon cricket," "n****r," and "ugly negro woman." They allegedly not only told her to "go back to her plantation," but they also mocked her and grabbed at her hair on a regular basis during school hours, within the classroom setting, and in the hallways between classes. There were also social media discussions about lynching the student. Ms. Vanderlaan claimed she frequently reported the harassment to faculty and staff when they did not personally observe it, but no effective action was taken in response. The ACLU of Michigan and North Star Alliance for Justice filed a friend-of-the-court brief in the federal lawsuit in January 2025. The brief argued that the disciplinary actions taken against the offending students were demonstrably ineffective and the school district was liable because of its persistent reliance on such measures which amounted to deliberate indifference to Ms. Vanderlaan's plight. It was further argued that the school district was obligated to diagnose how and why students individually and collectively developed harmful racial attitudes in the first place. Finally, it was argued that a multicultural curriculum should have been implemented to help students develop respect for others. (*Vanderlaan v. Hartland Consolidated School District, et al*., ACLU Attorney Mark P. Fancher.)

REPRODUCTIVE FREEDOM

Medicaid Ban on Abortion Care. After voters passed Proposal 3 in 2022, enshrining the fundamental right to reproductive freedom in the Michigan Constitution, the state legislature repealed some anti-abortion laws but left others in place. Among the laws that legislators failed to repeal is a 1980s-era ban on the use of state funds for abortion. As a result, hundreds of thousands of Michiganders with Medicaid insurance are unable to use their insurance to cover the cost of an abortion or any related care. The Medicaid ban creates a two-tiered system: people with higher incomes and private insurance are able to use their plans to cover the cost of an abortion, while Medicaid-eligible patients—who by definition are lower-income—are forced to come up with the funds themselves, which they may not have. The law also puts lower-income patients in harm's way, delaying or denying their access to care and in some cases forcing them to carry a pregnancy to term. In June 2024 the ACLU filed a lawsuit challenging Michigan's ban on Medicaid coverage for abortion care on behalf of YWCA Kalamazoo, an organization that operates a fund to help people pay for abortion care. We are arguing that the ban is unconstitutional under Michigan's new constitutional amendment guaranteeing the right to reproductive freedom. Even though the government did not initially challenge YWCA Kalamazoo's standing to bring this lawsuit, the trial court raised the issue itself and then dismissed the lawsuit in July 2025 without addressing the merits of our claims. The court held

that YWCA Kalamazoo was not sufficiently interested in the constitutionality of Michigan's Medicaid Ban to be the plaintiff in this lawsuit. We appealed that same month and filed our opening brief in October 2025. (*YWCA Kalamazoo v. State of Michigan*; ACLU of Michigan Attorneys Bonsitu Kitaba-Gaviglio, Phil Mayor, and Dan Korobkin; National ACLU Attorneys Brigitte Amiri and Ryan Mendias; Cooperating Attorneys Katherine Cheng, Jessica Huang, Jenna Welsh, Jennifer Briggs Fisher and Jamie Santos of Goodwin Procter.)

Employer's "No Pumping" Policy. When Elizabeth Burke returned to her job as a flight attendant for Spirit Airlines after giving birth to her child, she was told by her employer that she would not be allowed to pump breastmilk on the aircraft. As a result, Ms. Burke was forced to reduce the number of flights and hours she worked, which in turn made her ineligible for medical leave time under the Family and Medical Leave Act. Then, when Ms. Burke experienced other childbirth-related conditions such as postpartum depression and migraines, she was terminated from her employment under the airline's strict "no fault" attendance policy. In December 2023 the ACLU of Michigan filed an administrative complaint with the Equal Employment Opportunity Commission on Ms. Burke's behalf, contending that Spirit's policies as applied to Ms. Burke discriminated on the basis of sex, pregnancy, and disability in violation of federal law. Spirit responded to the complaint in March 2024 and we filed a reply in May 2024. The EEOC ultimately decided not to continue its investigation and issued a right to sue letter in October 2025. (ACLU Attorneys Syeda Davidson and Bonsitu Kitaba-Gaviglio.)

SEX DISCRIMINATION

Sexual Harassment in Public Schools. All students have a right to learn in an educational environment free from sexual harassment and other forms of discrimination by their peers. Although a federal law known as Title IX allows students who are sexually harassed by peers to enforce this right, precedent established by the U.S. Supreme Court and the Sixth Circuit have watered down Title IX's protections and make it difficult to plaintiffs to prevail in such litigation. In June 2023 the Michigan Supreme Court announced that it would consider a case involving peer-on-peer sexual harassment in the Alpena Public Schools. Working with Public Justice and A Better Balance, the ACLU of Michigan filed a friend-of-the-court brief in September 2023 arguing that the Supreme Court should construe our state's civil rights law, the Elliott-Larsen Civil Rights Act, more expansively than Title IX, so as to provide greater legal protections and a better legal standard for students who are sexually harassed by peers in Michigan schools. In August 2024 the Michigan Supreme Court held that a school district cannot be held vicariously liable for harassment by students as suggested by the court below, and remanded the case for a determination of whether the school district can be directly liable for its own action or inaction to stop or address peer harassment. In April 2025, the Court of Appeals agreed with our position that a school may be directly liable for peer harassment if they failed to take prompt and appropriate remedial action in response to complaints about discrimination. (*Doe v. Alpena Public School District*; ACLU Attorneys Bonsitu Kitaba-Gaviglio and Dan Korobkin; Co-counsel Alexandra Brodsky of Public Justice and Dana Bolger of A Better Balance.)

VOTING RIGHTS

Protecting Democracy Against Election Denialism. In Michigan, and throughout the nation, a rise in election denialism has resulted in a movement for members of boards of canvassers to refuse to certify election results. Such refusals are plainly unconstitutional and contrary to Michigan law, but that has not stopped canvassing board members in Michigan from 2020 onwards from occasionally refusing to certify election results, even though their job is supposed to be a simple clerical and ministerial one of adding up the votes that were cast in their jurisdiction as indicated by the election returns. In August 2024 a member of the Kalamazoo County Board of Canvassers reportedly told *The Detroit News* that the 2020 election was "definitely" stolen from Donald Trump, and that he would refuse to certify the November 2024 election if it unfolded in the same manner as 2020. In order to prevent disruptions following the election, in September 2024 the ACLU filed a lawsuit seeking a judicial declaration that such an act by the canvassing board member would be unlawful. Less than a week later, the canvasser signed a public affidavit recognizing his legal obligation to certify the election and committing to do so. As a result, we agreed to voluntarily dismiss the lawsuit, and used the successful results of this suit to warn other county canvassers elsewhere in Michigan that they would be subject to swift and decisive legal action if they refused to perform their legal duties. We will continue to use this precedent in future elections as well. (*ACLU of Michigan v. Froman;* ACLU of Michigan Attorneys Phil Mayor, Delaney Barker and Dan Korobkin; National ACLU Attorney Theresa Lee.)

"Adopt and Amend" Legislative Maneuver Guts Ballot Initiatives. In 2018 citizens collected enough signatures to place initiatives on the ballot that would raise the minimum wage and guarantee paid sick leave. But instead of allowing citizens to vote on these important measures at the November 2018 election, the state legislature adopted them into law in order to keep them off the ballot—and then proceeded to gut them as soon as the election was over. This cynical move, which is unprecedented in Michigan history, was challenged in the Michigan Supreme Court through a request by the legislature for an advisory opinion about whether the "adopt and amend" strategy is constitutional. In 2019 the ACLU of Michigan led a coalition of organizations in filing a friend-of-the-court brief arguing that it is not. Unfortunately, the Supreme Court issued an order dismissing the case and declining to issue a ruling. However, the case returned to court a few years later, and in 2022 we filed another friend-of-the-court brief, this time in the Michigan Court of Appeals. In January 2023 the Court of Appeals ruled that the "adopt and amend" strategy is constitutional. We then filed a friend-of-the-court brief yet again in April 2023 urging the Michigan Supreme Court to review the decision. In June 2023 the Court agreed to hear the case, and we supplemented our briefing in October 2023. In July 2024 the Court finally issued a decision agreeing with our position, ruling that "adopt and amend" is unconstitutional. The legislative initiatives as originally passed were ordered to take effect beginning in 2025. (*In re Request for Advisory Opinion Regarding Constitutionality of 2018 PA 368 & 369*; *Mothering Justice v. Attorney General*; ACLU Attorneys Dan Korobkin and Sharon Dolente; Cooperating Attorney Eli Savit of U-M Law School; Co-counsel Andy Nickelhoff for the Michigan AFL-CIO.)

Robocalls Attempt to Disenfranchise Black Voters. In the 2020 election two individuals orchestrated a scheme to direct fake "robocalls" to minority neighborhoods across the nation, including in Michigan. With an obvious intent to disenfranchise Black voters, the robocalls

falsely stated, in the midst of the pandemic, that information about people who voted by mail could be used to pursue open warrants, debt collection, and mandatory vaccination. The Attorney General of Michigan sought to prosecute the robocallers, and the robocallers argued that their calls were protected by the First Amendment's right to freedom of speech. The trial court and the Court of Appeals both held that the speech was not protected, and in November 2022 the Michigan Supreme Court agreed to hear the case. The ACLU of Michigan agreed that the First Amendment does not prohibit the state from prosecuting these robocallers for attempting to disenfranchise voters, but we were concerned that the Attorney General's legal theory in the case was dangerously overbroad and could result in allowing the speech of voting rights advocates and political activists to be criminalized in the future. Therefore, in June 2023 the ACLU of Michigan worked with Promote the Vote to file a friend-of-the-court brief urging the Michigan Supreme Court to issue a ruling that would not chill important political speech during elections, while also providing a legal path for the Court to rule that the prosecution of the robocallers in this case could proceed. In November 2023 we participated in oral argument with special permission from the Court. In June 2024 the Court issued a decision that agreed with our position on virtually every issue in this case and remanded to the lower courts for further proceedings. Specifically, the Court rejected the Attorney General's overbroad legal theories that could have also allowed the criminalization of normal political speech, and also adopted a test very similar to the one we urged that ought to allow for prohibiting a limited range of speech such as that engaged in by the robocallers that deliberately seeks to trick voters out of voting by lying to them about how the election process works. On remand, the Court of Appeals allowed the prosecution to move forward, and in August 2025 the robocallers pleaded no contest to felony charges. (*People v. Burkman*; ACLU Attorneys Phil Mayor and Dan Korobkin; Co-counsel Mark Brewer for Promote the Vote.)

Keeping Polling Places Safe and Orderly. The 2020 elections in Michigan were smoothly run, but were nonetheless marred by rude, uninformed, and disruptive conduct by election challengers, many of whom embraced false beliefs about our electoral system. In response, in 2022 the Secretary of State issued a manual providing guidance to election officials and challengers as to how challengers could and should conduct themselves in polling places and instructing election officials that they could eject challengers who refuse to follow the law. The Michigan Republican Party, the Republican National Committee, and other individuals then sued the Secretary of State, arguing that several aspects of the guidance exceeded the Secretary's legal powers. In October 2022 the Court of Claims invalidated many provisions of the Secretary's manual, and in October 2023 the Court of Appeals affirmed the ruling of the Court of Claims. The Secretary filed an application seeking leave to appeal in the Michigan Supreme Court, and in March 2024 the ACLU of Michigan filed a friend-of-the-court brief, joined by Promote the Vote, urging the Michigan Supreme Court to consider the appeal and emphasizing, in particular, that election officials have the power to eject from the polling places any challenger who refuses to follow the law. Our brief emphasized that if the lower courts' opinions were allowed to stand, election officials could be powerless to prevent challengers who embrace election denialism from engaging in disruptive and unlawful activity in the 2024 election. In August 2024 the Supreme Court issued a decision agreeing with our position, reversing the decisions below, and upholding most of the Secretary of State's guidance manual. (*O'Halloran v. Secretary of State*; ACLU Attorneys Phil Mayor and Dan Korobkin; Co-counsel Mark Brewer and Rowan Conybeare for Promote the Vote.)

Reversing Illegal Purges of Voting Rolls. In the runup to the 2024 election, various groups who distrust the 2020 election results embarked on campaigns to send mass challenges to election officials asking them to remove from the voter rolls thousands of valid voter registrations out of a misguided belief that the voter rolls are improperly swollen. These activities threatened to purge (and thus potentially disenfranchise) many properly registered Michigan voters, especially students, snow birds, overseas voters, and military voters. The purge attempts relied on an antiquated Michigan statute that has been superseded by both the federal National Voter Registration Act (NVRA) and by Michigan statutes implementing the NVRA. In response to these activities, the ACLU of Michigan issued Freedom of Information Act requests in multiple jurisdictions to detect where voters were susceptible to being purged, and in so doing came to learn that the clerk in Genoa Township had illegally purged hundreds of voters. In January 2024 we sent a letter to the Secretary of State, joined by Promote the Vote, urging her to issue binding guidance to all clerks statewide making clear that voters cannot be purged in response to mass challenges, and that when clerks receive information that a voter has moved they must follow the NVRA by issuing a letter to the challenged voter and waiting for two federal elections before permanently removing them from the voter rolls. In February 2024 the Secretary of State issued the guidance similar to what we had requested. We then sent a letter to the Genoa Township clerk demanding reinstatement of wrongfully purged voters, and all properly registered voters were reinstated by April 2024. In July 2025 the Secretary of State issued proposed regulations that would codify much of the guidance put out during the 2024 election. Along with our partners at Promote the Vote, we provided written comment on the guidance indicating approval with much of it, but urging the Secretary to eliminate a provision, which we believe to be unlawful under the NVRA, that would still allow voters, in certain limited circumstances, to challenge the registration of their neighbors and have them removed from the voting rolls within 30 days. (ACLU Attorneys Delaney Barker and Phil Mayor; Cooperating Attorneys Robert Fram, Pierre Anquetil, and August Gweon of Covington and Burling; Melanie Macy and Erica Peresman of Promote the Vote.)

Protecting Military Voters and Voters Living Abroad. Like many states, Michigan has a statutory scheme that ensures that the U.S. citizen spouses and children of citizens living abroad are able to vote. If, for example, you are a military member living abroad who last lived in Michigan, you are allowed to continue to vote in Michigan, as are your adult U.S. citizen children if they remain abroad and don't have any other state to vote in, even if they themselves never lived in Michigan. However, before the November 2024 election, the Michigan Republican Party (MRP) sought at the last minute to disenfranchise these vulnerable voters, filing a lawsuit asking to have their ballots thrown out just a few months before the election. The Michigan Court of Claims quickly dismissed the lawsuit because it was filed so shortly before the election, and the Michigan Court of Appeals also refused to issue relief before the election. Following the election, however, the MRP continued to litigate their appeal in an attempt to disenfranchise such voters moving forwards. In March 2025, we filed an amicus brief on behalf of the ACLU of Michigan and Secure Familiar Initiative, arguing that the MRP's efforts to disenfranchise military voters and other voters living abroad was illegal under Michigan law. In August 2025, the Court of Appeals dismissed the MRP's appeal on procedural grounds without reaching the merits of the dispute, meaning that this issue may recur in the future. (*Michigan Republican Party v. Benson*; ACLU Attorneys Phil Mayor and Dan Korobkin; Co-counsel Danielle Lang and Alexanra Copper from Campaign Legal Center and Corey Staughton, Alexandra Butler, and Andrew Azorsky from the law firm Selendy Gay PLLC.)

Preparing for Rapid Responses on Election Day. It is nearly impossible for ACLU attorneys alone to respond to every problem that may arise on Election Day for clerks or voters. That's why in preparation for the 2024 election, we launched a pilot program to respond to issues that frequently arise, such as when a voter is turned away from a polling place or when a person with a disability is not able to cast their vote because of inadequate or broken voting equipment. We identified counties that had election-related issues in the past and recruited attorneys who regularly practice in those cities to respond to the most frequently heard complaints on Election Day. The attorneys who stepped up to participate in this pilot quickly became well-versed on issues such as election intimidation, voter ID issues, and accessibility concerns for voters with disabilities. They agreed to be "on call" all day on Election Day in case we needed them to run into court. (ACLU of Michigan Attorneys Syeda Davidson and Delaney Barker, ACLU of Michigan Deputy Political Director Jessica Ayoub, Cooperating Attorneys Jon Biernat, David Blanchard, David Cassell, Rebecca Cassell, Ebony Ellis, Muna Jondy, Kary Love, Jana Mathieu, Jack Mazzara, Joslin Monahan, Michael Naughton, Carlye Reynolds, Glenn Simmington, Brad Springer, Benjamin VanSlyke, and Chris Wickman.)