

First Amendment
National Security
Technology and Liberty
Human Rights

DEMOCRACY

A

Disability Rights
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Voting Rights

EQUALITY

C

Capital Punishment
Drug Law Reform
Prison and Incarceration

JUSTICE

L

LGBT and AIDS
Religion and Belief
Reproductive Freedom
Women's Rights

LIBERTY

U

2009-2010

Annual Report



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We grow stronger amid challenges

The current economic downturn has been challenging for everyone, and the ACLU has not been immune. Since January 2009, the National ACLU has cut 25 percent of its staff. The Oregon affiliate



from the
EXECUTIVE DIRECTOR
**DAVID
FIDANQUE**

has had to impose furloughs, salary cuts and eliminate staff positions. Nevertheless, we have been reorganizing so we can respond to emerging civil liberties threats even more quickly and effectively. The National ACLU and our network of 50 affiliates are collaborating more closely and effectively than ever before.

Of course, the challenges for civil liberties continue no matter what is happening with the economy. While the Obama administration has made some positive changes, it has also continued

and expanded many Bush-era policies – especially in the area of national security. Here in Oregon, we also continue our work in the courts, in the Legislature and with the public.

This report highlights much of that work during the past year, along with stories from people facing personal civil liberties challenges and recognition of those who support us as volunteers, donors and members.

2010 marks the 90th anniversary of the American Civil Liberties Union and the 55th anniversary of the ACLU of Oregon. We have weathered challenges before, and with the help of all of our generous supporters, including you, we will ensure that the ACLU will always be prepared to protect and advance freedom and liberty.

Thanks again for making civil liberties and civil rights – and the work of the ACLU – an important priority in your annual giving!



Derek Volkart, Southern Oregon Chapter Chair, Jeff Golden, ACLU of Oregon Board Member, Terry Holderness, Chief of Police for the City of Ashland, and David Fidanque, Executive Director of ACLU of Oregon, provided a panel discussion regarding the use of Tasers at the Southern Oregon Chapter Annual Meeting on October 25, 2009.

YEAR IN

April 1, 2009 -
March 31, 2010

REVIEW

It's a good thing that the ACLU of Oregon isn't afraid of controversy and hard work, because the past year has created plenty of both.

We've responded to unfairness in police actions, parade fees, parental rights and drug policy. We've lobbied and filed complaints to prevent legislative damage to civil liberties. We've reminded people of their freedom to read, to speak their mind, to keep their medical information private, to fair treatment by government and law enforcement. And we've had some fun honoring heroes and celebrating our freedoms.

We helped Oregon move toward a more equitable future, such as helping a lesbian parent establish that she has the legal rights of other parents even though she was not able to legally marry in Oregon. We fought to maintain the victories we've already won, as opponents continue to try to overturn or amend reproductive rights and the Oregon medical marijuana law.

Religious Dress

Few issues sparked as much controversy as whether public school teachers should be allowed to wear religious dress in the classroom. This was an issue where civil liberties concerns required a weighing of rights to determine policy.

The specific issue was the repeal of two laws that prohibited teachers from expressing their religious beliefs through their choice of clothing. The Legislature

voted in February to repeal those laws, despite an ACLU of Oregon request to delay the matter until the 2011 legislative session to allow more time for the issue to be studied.

The law was an important protection to prevent the endorsement of religion in the classroom by public school employees. While the proponents of repeal argued the law discriminated against teachers of minority faiths, our primary concern is that some teachers of the majority faith will promote their faith, thereby marginalizing students and families of minority faiths and nonbelievers. All children and their families should feel welcome in the public schools.

Lesbian Parental Rights Ruling

Working with Basic Rights Oregon, the ACLU participated in a ground-breaking lesbian parental rights case.

Sondra Shineovich and Sarah Kemp were in a domestic relationship for 10 years. Kemp became pregnant by artificial insemination twice during that time; the second child was born after the couple had separated. Shineovich went to court seeking a declaration that she is a legal parent of both children.

Shineovich wasn't legally considered a parent because of long-standing discrimination in Oregon law: Men whose wives have children via artificial insemination are automatically considered to be the legal parents of those children, as long as the husband had consented to the artificial insemination. But that legal standing is not available to same-sex couples, because they are prohibited from marrying in Oregon.

Shineovich asserted that she faced discrimination on the basis of gender and sexual orientation. She lost in the trial court, but the Oregon Court of Appeals ruled that no justification exists for denying a same-sex partner's status as a parent simply because the couple cannot legally get married, and because same-sex couples can become legal co-parents by adoption. Because the women disagreed over whether Shineovich consented to the artificial insemination, the case was sent back to the trial court for further proceedings.

Importantly, the Court of Appeals decided that while Oregon law restricts a marriage to one man and one woman, it does not restrict same-sex couples' rights to the legal benefits of marriage.

Reproductive Freedom

The ACLU of Oregon took successful legal action against an initiative petition that would bar all abortions by defining "life" as beginning at fertilization. Initiative Petition 30 would have created a right of every "innocent" human being to "life" including the unborn; it also would have made that right "paramount" to all others in the state constitution. That's where the initiative ran afoul of the Oregon Constitution: it contains two separate amendments. Voters have a right to be able to vote on each amendment separately.

In our lawsuit, filed in December 2008, we argued that making one right "paramount" above all others in the constitution represented a major shift in our state constitution's framework and was independent of the initiative's primary goal of defining life. A Marion County judge

agreed in a June 2009 decision and ruled that the Secretary of State should have refused to certify the measure for circulation.

Oregon Secretary of State Kate Brown appealed the trial court's ruling, but also announced that unless the appeals court ruled before the July 2010 signature deadline, she would refuse to validate any signatures submitted to place the measure on the ballot. The case, *Cohen et al. v. Brown*, is still pending before the Oregon Court of Appeals as of this writing.

Medical Marijuana

Despite its success in helping to ease the symptoms of debilitating medical conditions in many patients, the Oregon Medical Marijuana Act has faced repeated attacks. Three attempts to weaken the law failed in the 2009 legislative session. The bills were intended to allow employers to fire an employee for having a medical marijuana card – regardless of whether the employee is impaired at the workplace. The ACLU of Oregon actively opposed those efforts.

Unfortunately, the Oregon Supreme Court recently ruled that employers do not violate Oregon disability law if they fire an employee because the employee is a medical marijuana patient – even if there is no evidence the employee was impaired on the job. Now it will be up to us and other supporters of the medical marijuana law to convince legislators that additional protections for patients should be enacted.

In the pages that follow, you'll find the stories of three Oregonians who won't back down in exercising their rights – and protecting the rights of others. We salute Jose "Nico" Gasque, who



Evyn Mitchell, Stasia Brownell and Ruby Pipes staff an information table at the Hawthorne Street Fair in Portland.

held his "Know Your Rights" card in his hand as he was arrested in Portland because he refused to be searched by police; Rick Bayer, a medical doctor who speaks out for medical privacy for patients and physicians; and Southern Oregon political activist Wes Brain, who relies on his ACLU allies to defend his free speech rights.

2009-2010 FINANCIAL REPORT

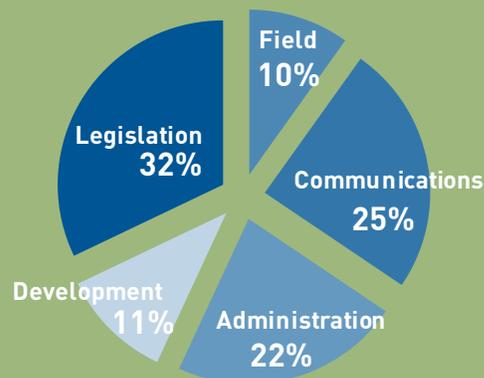
ACLU of Oregon

Expenses

Field	\$32,369
Communications	\$80,794
Administration	\$73,757
Development	\$36,133
Legislation	\$105,420
Total.....	\$328,473

Revenues

Membership	\$344,823
Grants (from National)	\$15,967
Bequests	\$0
Interest, Dividends & Investments	\$124,073
National Sharing/Other	\$16,479
Total.....	\$501,342



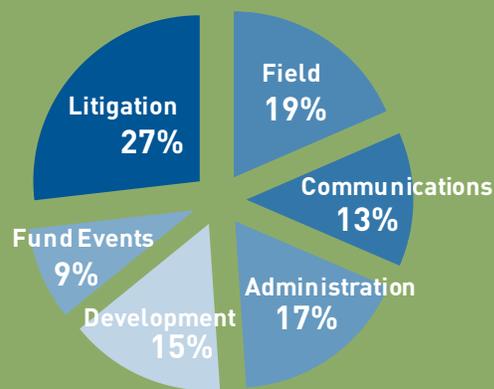
ACLU of Oregon Foundation

Expenses

Field	\$110,548
Communications	\$77,855
Administration	\$104,545
Development	\$90,861
Fund Events	\$54,207
Litigation	\$160,507
Total.....	\$598,523

Revenues

Contributions	\$268,007
Fundraising Events	\$103,675
Misc. Program Events	\$168
Attorney Fees	\$0
Bequests	\$22,861
Endowment	\$0
Interest, Dividends, & Investments	\$23,756
National Sharing/Other	\$34,848
Total.....	\$453,315



'Know Your Rights' card comes in handy

Being questioned by police can be intimidating, even if you know you have done nothing wrong. For 30-year-old José "Nico" Gasque of Vancouver, standing up for his rights was a lot easier when he was holding his ACLU "Know Your Rights" card.

On Nov. 15, Gasque and a close family friend, whom Gasque refers to as his brother, went out for the evening, visiting downtown Portland pubs for drinks, food and music.

Walking from one bar to another, they turned into an alley to avoid a disturbance up ahead of them. The men stopped for a cigarette break, and Gasque was taking a photo when Portland police cars pulled into the alley on either side of them. The officers asked what they were doing there, asked to see their identification and told them they were trespassing.

The men explained that they didn't see any signs that would indicate they were trespassing. They thought they were in a parking lot, although the land turned out to be the drive-up lane for a former Burger King restaurant.

"We asked if we could leave, but they said we were being detained. They took our driver licenses and had us sit on the curb," Gasque said.

A police officer said they could be ticketed for trespassing or they could leave if they consented to being searched.

"I said, 'No, you can't search me,'" Gasque said. "I knew the law was on my side. I had my ACLU card, and I stuck to my guns."

At that point, Gasque felt all the police attention shift to him.

The officers continued to ask for permission to search him. An officer told him that if he did not cooperate, he would be cited for trespassing.

"I told her, 'Ma'am, you do what you have to do.' I was so polite. At that point I was pretty sure of my rights, but I never felt as empowered as I did when I was holding that little card."

But then the officer turned around and said the police would take him to jail and he would be there until Monday when he could go before a judge.



"I never felt as empowered as I did when I was holding that little card."

José "Nico" Gasque

"The law was on my side. I knew I was not doing anything wrong," he said. "I told her, 'I do not consent to a search.' I was searched, handcuffed, and taken into the police car."

Gasque was arrested around 1:45 a.m., booked at the jail on

Know Your Rights — Your Rights in Oregon

If you are approached by state or local police and you are not driving a car...

Your Rights

- You do not have to stop unless ordered by the police to stop.
- Unless you are ordered to stop, you may leave at any time, but you should ask the police whether you are free to leave.
- You do not have to answer police questions without a lawyer present. You can tell the police that you want to speak to a lawyer before answering any questions.
- You may refuse to provide your Social Security number to the police.
- You may be required to show your green card if it is your only form of identification and you are being detained or arrested for a crime.
- The police will ask you to identify yourself. It is not illegal in Oregon to refuse to identify yourself, but you should never give the police false identification information.
- You do not have to consent to any search and/or seizure. If the police threaten to get a warrant, you may tell them to get one. The police may be able to detain you until they obtain a warrant.
- If the police search you without a warrant, do not resist; simply inform them that you are not consenting.

Police Authority

- Police can order you to stop if they reasonably suspect that you have committed or are about to commit a crime.
- Police can also stop you if they have reasonable grounds to believe that you have committed a violation. Police may detain you until they establish your identity.

The two-sided ACLU of Oregon Know Your Rights Card folds up to fit in your wallet or pocket. It's available at ACLU events or online at aclu-or.org (click on Resources and Know Your Rights).

a charge of criminal trespass II, then released at 6 a.m. Meanwhile, his brother agreed to be searched and was released.

The ACLU agreed to represent Gasque in court. The charge was reduced to a violation, but was finally dismissed minutes before the trial was set to begin.

Why did the police notice the men? Gasque has a theory, based on his Arab and Mexican ancestry and what he and his friend were wearing.

"We looked like we were from different circles. My brother has brown hair and blue eyes, and he was wearing clothes from Macy's. I look ethnic. I was dressed different, with a beanie and a big, blue, oversized Phat Farm jacket. I was holding my camera in my hand. I think they thought I was selling him drugs in that alley."

Gasque said it made a difference to him that he had the "Know Your Rights" card, which he received at an outdoor concert during Seattle's Hempfest in

August.

"I was told that not a lot of people assert their rights," he said. "I had known about the ACLU over the years. They are speaking up for everybody's rights."

Everyone can obtain a "Know Your Rights" wallet card. Go to www.aclu-or.org for details or to download a card. "Know Your Rights" trainings can be arranged. The ACLU's Youth Outreach Team in Eugene debuted its Know Your Rights workshop at the Human Rights Community Summit in April and hopes to continue giving the presentation to Lane County students and at-risk youth in the coming year.

Monitoring of police practices is an ongoing topic for the ACLU of Oregon. In Eugene, the ACLU is seeking access to records from the Civilian Review Board's investigation of an incident in which Eugene police used a Taser on a peaceful protester.

OREGON READS OUT

Banned Books Week September 2009

Oregonians celebrated the freedom to read during Banned Books Week and related activities spearheaded by the ACLU of Oregon along with the Oregon Intellectual Freedom Clearinghouse, the Oregon Association of School Libraries Intellectual Freedom Committee and the Oregon Library Association Intellectual Freedom Committee. Banned Books Week is observed each year during the last week of September. In 2009, 260 Oregon libraries observed Banned Books Week, and the ACLU of Oregon distributed more than 10,000 "I read banned books" buttons throughout the state.



Eugene Public Library Director Connie Bennett, Eugene Mayor Kitty Piercy, Southern District Field Organizer Claire Syrett and Lane County Chapter Board Member Judy Moseley at the ACLU information table at the Eugene Public Library Banned Books Week Read Out.

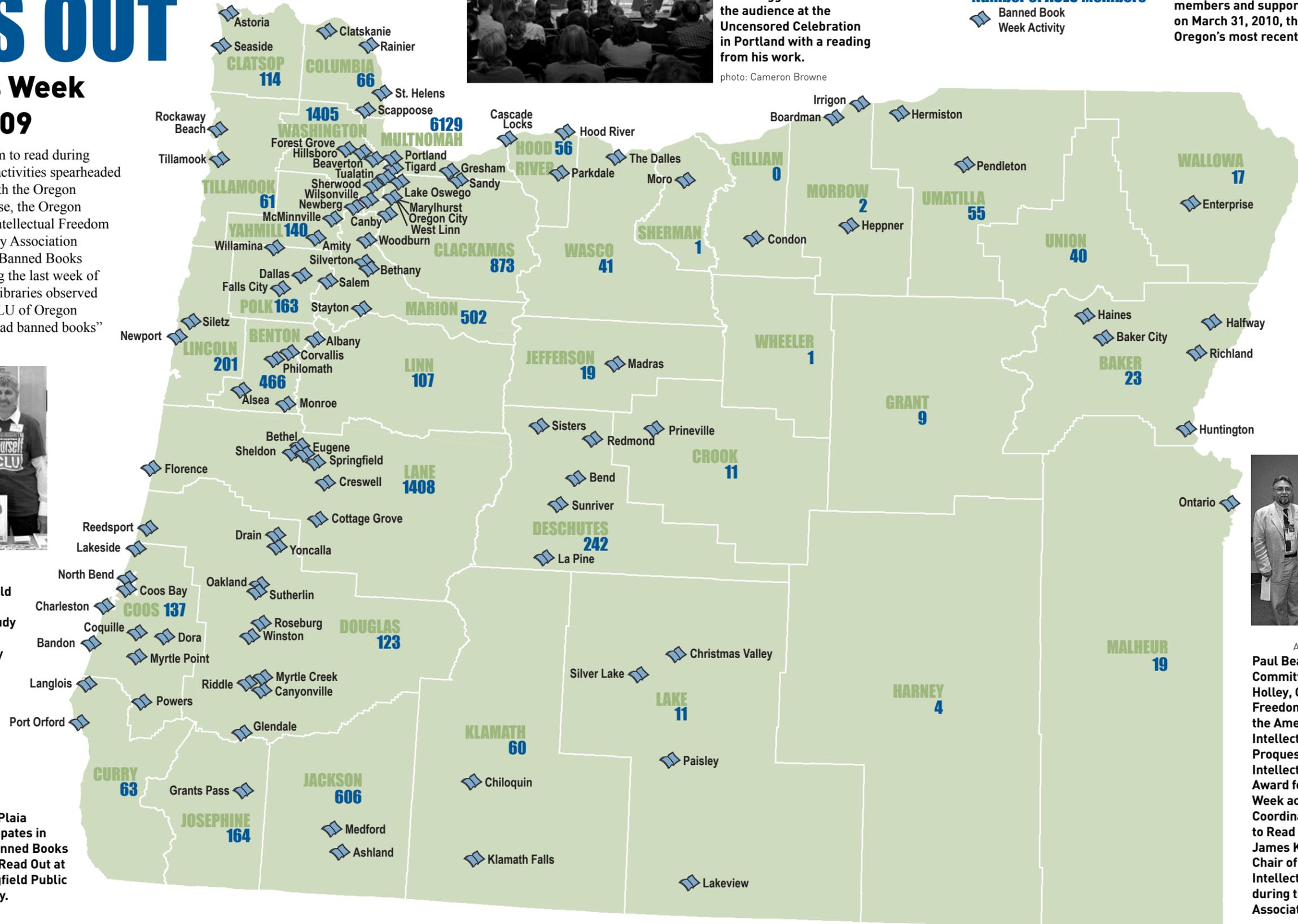


Carol Plaia participates in the Banned Books Week Read Out at Springfield Public Library.



Matt Briggs mesmerizes the audience at the Uncensored Celebration in Portland with a reading from his work.

photo: Cameron Browne



Patrons read from their favorite books during the Banned Books Week Read Out at Eugene Public Library.

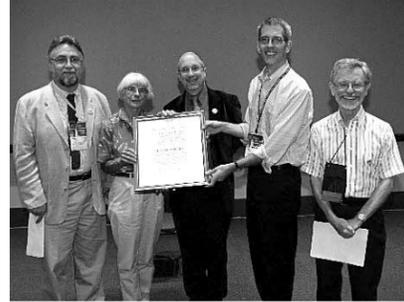


photo courtesy of the American Library Association Office of Intellectual Freedom
 Paul Beavers, Chair of the Award Committee (far left) and Robert Holley, Chair of the Intellectual Freedom Committee (far right) present the American Library Association Intellectual Freedom Roundtable Proquest-SIRSI State and Regional Intellectual Freedom Achievement Award for 2008 Banned Books Week activities to Candace Morgan, Coordinator of the Celebrate Freedom to Read Oregon; Development Director James K. Phelps; and Bob Kingston, Chair of the Oregon Library Association Intellectual Freedom Committee; during the 2009 American Library Association Conference in Chicago.

Speaking up for freedom of expression

For Ashland resident Wes Brain, the ACLU of Oregon is a welcome ally during challenging times.

“It is so wonderful having an active ACLU chapter down here in Southern Oregon when you are an activist,” Brain said.

Brain’s understanding of the right to free expression – and the potential cost of exercising that right – dates back at least to Oct. 15, 1969, when people around the world participated in the Moratorium to End the War in Vietnam.

“I was a senior at Sutherlin High School the year when there was a big movement to wear black armbands for the Vietnam War moratorium, and I organized that at my high school,” Brain said.

The protest wasn’t popular with many people in the rural Oregon city, and Brain heard about it – even from the local draft board.

“It puts a big bull’s-eye on you,” he said. “It pointed out that when you do speak up, there are people who don’t like it.”

In the years since, Brain has faced pushback from police, city officials and others who were leery of his activism.

“I’m kind of a loud-mouth; I really am,” he said. “My wife’s trying to domesticate me.”

He worries about people who keep quiet.

“In some circles, people are discussing whether we have lost democracy. I pay attention to it,” he said. “(The level of) participation in this country is embarrassing. Sometimes when times get tough, people get scared, and they don’t like to speak up. That scares me a lot.”

A few years ago, when he was laid off from his job in occupational health and safety at Southern Oregon University, Brain circulated a petition to keep his position. The layoffs – called a retrenchment – were continuing, and he was surprised at how many of his friends and colleagues declined to sign the petition.

“People were scared to sign my petitions because they were worried about their jobs,” he said. “It’s that same kind of fear that motivates people to be quiet

“Sometimes when times get tough, people get scared, and they don’t like to speak up. That scares me a lot.”

Wes Brain

and not stand up and challenge authority. We have so few people standing up that it raises the question about whether we have lost our democracy.”

Brain is on his third career, working part time for Southern Oregon Jobs with Justice. In addition to his prior work in occupational health and safety, he also spent time as a firefighter.

“Jobs with Justice is very much involved in standing up for our rights,” he said.

In Ashland, the ACLU



Ashland resident Wes Brain, an activist in Southern Oregon who works for Southern Oregon Jobs with Justice, has met with resistance to his activism since the late 1960s.

objected to the Ashland Chamber of Commerce pricing structure for parade entrants, with political organizations and candidates – including Southern Oregon Jobs with Justice – charged \$100 and other entrants charged \$30. After the ACLU objected, the Chamber of Commerce created a new fee structure, charging children’s and family groups \$30, Chamber of Commerce members \$50, and non-Chamber members \$100.

Jobs with Justice then applied to participate as a family organization but instead was charged \$100. Again, the ACLU objected. In December 2009, the Chamber of Commerce offered a settlement that restructured the parade fees with just two categories – Chamber members and non-Chamber members – that are not based on the content of expression.

In nearby Medford, the ACLU continues to urge the city to respect state and federal free speech protections. In 2007, two groups were required to pay \$104 in fees and to obtain a certificate of \$1 million worth of liability insurance before they could have a two-hour demonstration in a Medford park. The insurance

requirement was later waived, and the ACLU is negotiating with city officials to revise its city ordinances and rules to make sure they comply with state and federal free speech guarantees.

People in other parts of Oregon also are struggling over the right to free expression. In Salem, Michele Darr and other anti-war activists were cited for trespassing for their around-the-clock vigil on the Capitol steps. The case is pending in the Court of Appeals. In Jacksonville, the ACLU of Oregon continues its legal action against the U.S. Secret Service and other law enforcement agencies that unfairly broke up a protest against then-President George W. Bush when he visited in 2004.

In Pendleton, Blue Mountain Community College dropped its ban on political and “profane” content in posters after the ACLU sent a letter pointing out the college’s First Amendment obligations. Finally, The ACLU and the Media Coalition continue to fight an overbroad law that clumsily tries to prevent the distribution of materials deemed sexually explicit to minors.

Privacy rights are under attack

For Dr. Rick Bayer, medical privacy is a right that is being battered by new technology, identity theft and the war on drugs.

Patients deserve to receive medication when they are in pain, to feel secure that their personal health information is not subject to snooping by employers and the government, and to be able to use legal drugs without fear of arrest.

In more than 30 years as a medical doctor, Bayer maintained a strong commitment to the tenets of medical privacy: “Since I have seen many damaged by what was in or not in patient charts, proper documentation and security has always been a high priority for me.”

As technology has improved, so have the threats to patient data from identity theft.

“Medical privacy issues never attract the attention they deserve. And it gets worse as data is converted electronically so that it can more easily be transferred to the Internet or carried on laptops and even thumb drives that can fit into a coat pocket,” he said.

“Medical privacy is much more difficult now than 30 years ago when we had paper charts that could reach telephone book size and we could not send records across the country easily. The types of errors we routinely hear about now such as laptops stolen from cars simply never happened prior to laptops.”

In 2009, the Legislature decided to allow Oregon to create a database to monitor prescriptions of controlled substances statewide. The ACLU of Oregon opposed the law, and we are closely monitoring the planning and implementation of the pharmacy database to try to limit the damage to Oregonians’ medical privacy rights. The database will be designed to track an estimated 5 million legal



Nancy Crumpacker and Rick Bayer

prescriptions of pain medications and drugs such as Ambien, Ritalin and Xanax, with the intent of deterring drug seekers and drug abusers.

The ACLU of Oregon’s concerns about the law are many: it treats everyone like a potential drug abuser; it will allow the government and thousands of health care workers and pharmacists access to private medical information; and it will increase the threat of medical identity theft, particularly if the database is shared with other states.

Bayer said that nationally, pharmacy databases have been pushed by federal law enforcement officials, and the Oregon database will limit patients’ access to pain medicine that improves their quality of life.

“We should be trying to do a better job of helping patients in pain instead of some new scheme to put patient records at risk, put confidentiality at risk, and put the entire patient-doctor professional relationship at risk.”

Meanwhile, Bayer and the ACLU of Oregon are monitoring

threats to the Oregon Medical Marijuana Act. Bayer was a chief petitioner of the voter-passed initiative in 1998 and says it serves as a model for other states. He notes that ACLU has helped stop numerous legislative proposals that would have undermined the law. What is really needed, Bayer says, is a system to help give patients access to medical marijuana so they won’t be forced to grow it themselves or turn to the black market.

“Growing marijuana is difficult, particularly when it is prohibited for the general population. Now, not only do growers compete with insects and mold, but they must worry about being ripped off by those who would sell the medicine on the black market,” he said.

An initiative to permit state-regulated medical marijuana dispensaries may appear on the November ballot.

As a doctor and an Oregonian, Bayer supports the ACLU and appreciates its work in the Legislature and in the courts.

“The role of the ACLU is to do what cannot be done by the

individual. As a physician, I know a lot about medicine but little about other areas especially legal issues. The ACLU magnifies the effectiveness of activists because of the special expertise of ACLU national and the staff and board of ACLU Oregon.”

He cites ACLU of Oregon Executive Director David Fidanque’s leadership in helping to draft and pass the Oregon Medical Marijuana Act in 1998.

“The role of the ACLU is to seek justice, even if it isn’t the most popular route at the moment or the most remunerative avenue to take,” Bayer said.

The ACLU of Oregon had a number of privacy victories in the past year. The most important was securing passage of SB 536 (2009) which prevents the further implementation of the federal Real ID Act in Oregon unless privacy and security safeguards are implemented first. Oregon became the 24th state to go on record opposing the federal law that would create a nationwide database of identification documents that would be vulnerable to identity theft and other security breaches.

Another major victory was passage of a state law we drafted that restricts government and businesses from “swiping” the barcode data on the back of driver licenses and state-issued ID cards. Those barcodes include all of the data on licenses and ID cards, including full name, date of birth, sex, home address, height, weight and license number. While the new law will allow swiping for fraud prevention and in some other cases with permission, it prohibits the collection or retention of anything beyond your name, address, date of birth and card number. Even in cases where swiping is authorized, businesses are prohibited from using the data for marketing purposes.

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2011 Liberty Dinner

Don't miss the 2011 Liberty Dinner featuring Susan Herman, president of the American Civil Liberties Union. The event will be held the evening of Saturday, March 12, 2011, at the Portland Hilton.

Susan Herman was elected ACLU president, our highest ranking volunteer position, in October 2008 after having served on the ACLU National Board of Directors for 20 years, as a member of the Executive Committee for 16 years, and as general counsel for 10 years. This will be her first official visit to Oregon since being elected president.

Herman holds a chair as Centennial Professor of Law at Brooklyn Law School, where she currently teaches courses in constitutional law and criminal procedure and seminars on law and literature, and terrorism and civil liberties. She writes extensively on constitutional and criminal procedure topics for scholarly and other publications. Herman has discussed constitutional law issues on radio, on television and in print media. In addition, she has been a frequent speaker at academic conferences, continuing legal education events and non-legal events. She has also participated in Supreme Court litigation, writing and collaborating on amicus curiae briefs for the ACLU on a range of constitutional criminal procedure issues and conducting Supreme Court moot courts, and in some federal lobbying efforts. Tickets for the 2011 Liberty Dinner are available online at www.aclu-or.org/dinner.

If you have any questions or you are interested in sponsorship opportunities or hosting a table at the event, please contact Development Director James K. Phelps at jphelps@aclu-or.org or (503) 552-2101.

SAVE THE DATE 2011 Liberty Dinner

March 12, 2011
Portland Hilton

featuring
Susan Herman
President, ACLU



photo: Alex Silver/The Cornell Daily Sun