ACLU WOMEN'S RIGHTS PROJECT

ANNUAL REPORT 2002

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ABOUT THE ACLU WOMEN'S RIGHTS PROJECT

The American Civil Liberties Union is a national, nonpartisan public interest organization of nearly 300,000 members, which is dedicated to protecting individual rights. The National office is headquartered in New York City. ACLU affiliate offices exist in nearly every state in the country, the District of Columbia, and Puerto Rico.

The ACLU Women's Rights Project is part of the National ACLU. It was founded in 1971 by Ruth Bader Ginsburg, and since that time has been a leader in the legal battles to ensure women's full equality in American society. The WRP is dedicated to the advancement of the rights and interests of women, with a particular emphasis on issues affecting low-income women and women of color.

The Women's Rights Project has overall responsibility for implementing ACLU policy in the area of gender discrimination. The WRP conducts direct litigation, files *amicus curiae* briefs, provides support for ACLU affiliate litigation, serves as a resource for ACLU legislative work on women's rights, and seeks to advance ACLU policy goals through public education, organizing and participating in coalitions. The WRP has been an active participant in virtually all of the major gender discrimination litigation in the Supreme Court, in Congressional and public education efforts to remedy gender discrimination, and other endeavors on behalf of women.

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A MESSAGE FROM THE DIRECTOR

As I look back over the work of the Women's Rights Project this past year, I am proud of what we have accomplished. In 2002, we continued to expand our docket, working with our affiliates to litigate several important cases, across a broad spectrum of issues. We also conducted public education, through printed materials and speaking engagements. Finally, in collaboration with the ACLU's National Legislative Office, we fought to protect women's rights in Congress.

Our work involved five core areas: employment, poverty and welfare, violence against women, criminal justice, and education. We were also involved in matters involving pregnancy, public accommodations, and athletics. In each of these matters, we focused on the needs of low income women and women of color. This Report describes the litigation, public education, and advocacy carried out by the Women's Rights Project and ACLU affiliates throughout the country. Some of the highlights are discussed below.

This year, we launched an exciting new project focusing on low-wage Latina workers' rights, which includes community education, advocacy and litigation to address employment discrimination, sexual harassment, and wage and hour violations of women working in sweatshops, restaurants, and as domestic workers. This project is part of our ongoing efforts to make legal rights a reality for women who have not historically benefited from these rights and to expand our work on behalf of Latina and other immigrant women.

We also joined in a case initially brought by the United States Department of Justice against the New York City Board of Education for discriminatory recruitment and hiring of school custodians. Under the leadership of John Ashcroft, DOJ is now refusing to defend the settlement agreement it entered into to resolve the case, and we have therefore entered to represent the female and minority custodians. This case presents a new danger: it may be one of many cases in which the Civil Rights Division of DOJ no longer defends the civil rights of women and people of color, thus forcing the WRP to step in to fill this void. This case also advances our goal of promoting women's access to non-traditional employment.

The WRP continued to be active in welfare matters, including a case that will be argued before the New Jersey Supreme Court in early 2003 challenging a child exclusion provision that denies funding to any child born into a family already receiving welfare. We also worked with our Wisconsin affiliate on a complaint filed with the Department of Health and Human Services alleging race and disability discrimination in Wisconsin's workfare program. Because the majority of welfare recipients are women (and their children), welfare reform is a critical women's rights issue.

Finally, we expanded our efforts on behalf of victims of domestic violence by initiating a campaign that involves outreach, community education and litigation to address discrimination against battered women living in subsidized housing. Through this effort, we hope to provide low-income battered women with information about their rights to be free from housing and other discrimination and to represent those who are subjected to such unlawful conduct.

These are just a few examples of the important work we are doing to ensure that all women – including low-income women, women of color, and immigrant women – obtain equality and justice. In the current political climate, we must work harder than ever to achieve these goals. We thank our determined clients, our colleagues in the ACLU and its affiliates, our partners in other women's rights organizations, and our generous supporters for helping the Women's Rights Project meet the challenges that lie ahead.

CASES, INVESTIGATIONS AND RELATED ACTIVITIES

Employment

Watching the Watchdogs

The Civil Rights Division of the United States Justice Department is meant to act as one of the last guardians of civil rights in America and to fight for real equality of opportunity on behalf of women, people of color, and the disabled. The Ashcroft Justice Department, however, has again and again shown a disturbing tendency to walk away from these fights and from those whom it is obligated to protect, as the Civil Rights Division turns away from the enforcement of civil rights. The Women's Rights Project has been a leader in the ACLU's efforts to call attention to the Justice Department's abdication of its obligations. In addition, the Women's Rights Project has begun to take up the work that the Civil Rights Division has failed to do. This year, when the Justice Department abandoned justice, the Women's Rights Project stepped in.

United States v. New York City Board of Education

In 2002, the Women's Rights Project, acting on behalf of twenty-two women and people of color employed as school custodians, sought to defend the lawfulness of an agreement remedying the effects of the New York City Board of Education's past gender and race discrimination. The Women's Rights Project became involved when in 2002, the Civil Rights Division of the U.S. Department of Justice reversed its longstanding positions in the case and abandoned many of those individuals whose rights it had previously championed.

In 1996, the Civil Rights Division of the Justice Department sued the New York City Board of Education, alleging that the Board had long discriminated against women, African-Americans, Hispanics, and Asians in hiring custodians. Every New York City public school building has a custodian assigned to it, who is responsible for supervising a staff of handypersons and cleaners; for maintaining the upkeep, cleanliness, and safety of the building; and for ensuring its daily physical operation. These are high-paying positions with managerial responsibility. They have also traditionally been held almost exclusively by white men. For instance, in 1993, about the time the Justice Department began its investigation of the Board of Education, only 13 out of 865 custodians were women. 796 of the custodians were white. "When I began working in New York City public schools as a cleaner and handyperson in 1987," said Marianne Manousakis, one of the women represented by the Women's Rights Project, "the idea that a woman could ever become a custodian was laughable to me."

In its 1996 complaint, the Justice Department alleged that the Board did not recruit women, African-Americans, Hispanics, and Asians for custodian jobs. It also alleged that the Board's hiring processes discriminated against African-Americans and Hispanics, because the written examinations custodian applicants were required to take disproportionately excluded African-Americans and Hispanics. After several years of litigation, the Justice Department and the Board of Education entered into a settlement agreement. At that time, most of the women, African-Americans, Hispanics, and Asians working as custodians were employed only provisionally, meaning they did not have the civil service protections enjoyed by permanent employees and they could not compete for various job benefits. The settlement agreement

provided that these women and people of color employed provisionally would all become permanent civil service employees. The settlement agreement also provided retroactive seniority to women, African-Americans, Hispanics, and Asians who had previously been employed provisionally. These awards were meant to remedy the effects of the Board of Education's past discrimination on the basis of gender and race. The settlement agreement also provided that if any provision of it were challenged, the Justice Department and the Board of Education would "take all reasonable steps to defend fully the lawfulness of any such provision."

Several white male custodians represented by a far right legal activist organization called the Center for Individual Rights brought just such a challenge, arguing that the awards of retroactive seniority and permanent employment status discriminated against *them* as white men on the basis of their gender and race. In the face of this challenge, the Justice Department reneged on its promise, and the Women's Rights Project stepped in, to fight on behalf of those the Justice Department had abandoned.

When the white male custodians asked the court to immediately strip the women and the people of color who had received benefits under the settlement of their permanent employment status, the Justice Department defended fewer than half of the custodians who received awards under the settlement agreement – twenty-seven out of fifty-nine. And despite the fact that attorneys from the Justice Department had long worked closely with these individuals as the Justice Department prepared its case against the Board of Education, when the Justice Department decided that it would no longer defend the bulk of the settlement agreement that it had sought, obtained, and enforced, it did not tell any of the affected individuals about the change in position. Indeed, when, alerted by the Women's Rights Project, custodians abandoned by the Justice Department called the new attorneys on the case to ask what was happening, these attorneys misleadingly stated that they were still defending the settlement agreement, despite their actions to the contrary in court. "I have planned my life around the benefits I received under the settlement agreement," said Janet Caldero, one of the first women to become a custodian in the New York City public schools, "and the Justice Department didn't give me so much as a phone call when they decided not to defend these benefits."

On behalf of Janet Caldero, Marianne Manousakis, and twenty of the other custodians abandoned by the Justice Department, the Women's Rights Project is seeking to intervene in the litigation to protect the awards they received under the settlement agreement. Voluntary settlement agreements like the one entered into in this case are an important and necessary way of creating equal opportunities in the workplace for women and people of color. Defense of this settlement agreement in the face of the Justice Department's failure to act thus represents an important part of the Project's efforts to remove barriers to women=s full participation in society.

Lanning v. Southeastern Pennsylvania Transportation Authority (SEPTA)

A second case in which the Department of Justice reversed its prior position is *Lanning v. SEPTA*. In this case, the U.S. Court of Appeals for the Third Circuit in October 2002, affirmed a district court ruling that an entry-level test imposed by the Southeastern Pennsylvania Transportation Authority, the Philadelphia transit police department, requiring applicants to run 1.5 miles in 12 minutes, appropriately

measured the minimum qualifications necessary for successful performance. The Women's Rights Project and the ACLU of Pennsylvania had joined an *amicus* brief submitted by the Women's Law Project and the National Center on Women and Policing that argued that the test discriminates against female applicants and is neither job-related nor consistent with business necessity.

The loss in the Third Circuit is a major setback to increasing the numbers of women in policing. SEPTA is now permitted to keep in place an excessively rigorous physical agility test that disqualifies 90% of female applicants, but does not advance the concerns of public safety as SEPTA purports because the test applies as a condition of admission rather than of graduation, when officers will most imminently confront public safety demands. Indeed, the alternative of imposing the test upon graduation, a time at which nearly all women would be able to pass it, would both allow women entry into the police department and enhance public safety.

In 1997, the Justice Department had filed a lawsuit against SEPTA alleging that the test was discriminatory and consolidated its case with that of plaintiffs. Four years later, when the lawsuit was before the Third Circuit for the second time after an initial reversal and remand of the district court's judgment in favor of SEPTA, the Justice Department notified the Third Circuit that it planned to drop its appeal. Under John Ashcroft's leadership, the Justice Department argued that the test was important for public safety. It is impossible to know whether the result in the Third Circuit would have been different had the Justice Department not abandoned the case.

Protecting Pregnant Employees

Access to appropriate work assignments during pregnancy is essential to women's ability to advance within their careers. Discrimination on the basis of pregnancy is one of the most prevalent barriers faced by women as they seek to gain longevity and seniority within their jobs.

Lochren, MacDermott, O'Brien, and Mennella v. County of Suffolk and Suffolk County Police Dept.

The Women's Rights Project, along with the New York Civil Liberties Union and the New York law firm Rosen Leff, represent six female police officers in Suffolk County, New York, who were forced off their jobs when they became pregnant. The plaintiffs, among a small number of women officers employed by the Suffolk County Police Department (SCPD), had sought, but were denied "light-duty" assignments. Before April 2000, the SCPD's policy was to provide light duty assignments to all officers who needed them. The majority of such assignments were requested and filled by women, primarily for pregnancy-related reasons and for fewer than six months. In April 2000, the SCPD changed its policy to allow only those officers injured on the job access to light duty, thereby excluding all pregnant officers.

As a result of the change in policy, plaintiffs, who wished to work during their pregnancies, were left with no option but to take unpaid leaves for the duration of their pregnancies. The WRP filed a lawsuit in June 2001 alleging that denying plaintiffs light duty assignments, while providing these assignments to other employees with medical conditions incurred on or off the job (the SCPD continued to accommodate some men with off the job injuries even after the policy change), constitutes intentional discrimina-

tion and imposes a disparate impact on women, in violation of Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, and the New York State Human Rights Law.

In September 2002, the district court denied defendants' motion to dismiss the case. The matter has been remanded to the EEOC for further administrative proceedings before discovery will commence.

Adams v. Toombs County

In a pregnancy discrimination case handled by the ACLU of Georgia, the Sheriff of Toombs County demoted a female sheriff's deputy because of her pregnancy after she refused to resign. Her husband, another deputy, was also pressured to urge her to resign, and then was demoted when he refused to do so. The EEOC issued the female deputy a right-to-sue letter based on sex discrimination and retaliation. The ACLU of Georgia then filed a lawsuit on behalf of the couple. In late 2002, the court denied defendants' motion for summary judgment. The parties are discussing settlement.

Neri v. Catholic Charities

In 2002, the New York Civil Liberties Union filed a pregnancy discrimination complaint with the EEOC on behalf of Aimee Neri, the Director of an after-school program for middle school students near Buffalo, New York, who was demoted when she became pregnant, for no reason other than she became pregnant and was not married. The program, which is state-funded and held in a public school, is run by Catholic Charities. Ms. Neri, who was a superb employee, was informed that she could either accept the demotion or resign. Her situation highlights the importance of ensuring that government funds not support faith-based programs that discriminate against their employees.

Knox-Schillinger v. TWA

In September 2002, the ACLU Women's Rights Project argued an appeal in this case before the U.S. Court of Appeals for the Third Circuit. Since the 1980s, we have represented Linda Knox-Schillinger and a class of TWA flight attendants in a pregnancy discrimination case that challenged TWA's policy of requiring all pregnant flight attendants to take mandatory unpaid leaves of absence immediately upon becoming pregnant. The case was settled in 1995, and as part of the settlement agreement, TWA agreed to give members of the class 10 travel vouchers for each pregnancy they had during the period when the unlawful mandatory unpaid leave policy was in effect. These travel vouchers could be used by the flight attendants or their family members to travel anywhere in the world at any time during their life. Approximately 2000 class members each received on average 25 travel vouchers under the settlement agreement.

In 2001, TWA declared bankruptcy and announced that American Airlines had offered to purchase it. In the purchase agreement, American refused to honor the flight attendants' travel vouchers. The Women's Rights Project appeared in Bankruptcy Court in Wilmington, Delaware, to object to the purchase with respect to American's refusal to continue the voucher program. The Bankruptcy Court nonetheless granted permission for the sale to go forward. The WRP appealed the Bankruptcy Court's decision, arguing that American should not be relieved of its obligation to continue to honor the travel vouchers awarded as part of the pregnancy discrimination settlement. The district court ruled against

the flight attendants and we appealed to the Third Circuit. We are now awaiting a ruling from the court.

Equal Pay for Equal Work

Gonzalez v. The Chapin School

The Women's Rights Project is working with the Service Employees International Union Local 32BJ (SEIU) in support of a gender discrimination lawsuit against The Chapin School, an exclusive all-girls' school on the Upper East Side of New York City. Elsa Gonzalez and Maria Aleman, two part-time female cleaners at The Chapin School, are paid less than male cleaners who perform the same work – because they are women. In addition, Ms. Gonzalez has been denied full-time employment by Chapin because such work is, according to her supervisor, a man's job.

At The Chapin School, only men are hired for better-paid, full-time positions, and the *lowest* paid male part-time cleaner earns more on an hourly basis than the *highest* paid female part-time cleaner. In June 2002, full-time male cleaners earned between $11.29 and $16.24 per hour; there were no full-time female cleaners. Male part-time cleaners earned significantly more per hour than Ms. Gonzalez and Ms. Aleman, even taking seniority into consideration. Ms. Aleman, with nine years of experience at The Chapin School, earned $9.42 per hour and Ms. Gonzalez, with five years of experience, earned $8.47 per hour. In comparison, one male part-time cleaner with six years of experience earned $11.00 per hour, while a second male part-time cleaner with two years of experience was paid $10.55 per hour.

These pay differentials are based only on the gender of the cleaners. While men and women who work as cleaners are assigned different titles – men are "maintenance workers" and women are "housekeepers" – male and female cleaners perform substantially equal work. Such a blatant form of gender discrimination sends a strong message that The Chapin School, which supposedly strives to educate tomorrow's female leaders, values work performed by women less than the same work when it is performed by men.

In December 2002, the WRP sent a letter to the Headmistress of The Chapin School and Chapin's Board of Trustees, explaining why Chapin's payment of lower wages to women violates federal, state, and local laws. In early 2003, we plan to participate in a delegation to the school to urge a change in policy. We may also submit an *amicus* brief in the court proceeding. The WRP also plans to work with SEIU in future litigation involving sexual harassment and gender discrimination of female cleaners at other locations.

Weigmann v. Glorious Foods

In 2002, the Women's Rights Project received the final set of compliance documents, monetary compensation, and attorneys' fees pursuant to the settlement agreement in this case. We reviewed the documents and made final disbursements of settlement funds to the class of women.

This brings to a close a major class action brought on behalf of hundreds of underpaid women who worked in the catering industry. In 1997, the WRP settled the case for monetary damages and injunctive relief requiring the company to hire men and women in proportion to their numbers on the company's active wait

list. For five years, we monitored compliance with the consent decree and disbursed thousands of dollars in compensation to the class.

Access to Family Leave

Nevada Dep't. of Human Resources v. Hibbs

The ACLU joined an *amicus* brief drafted by the National Women's Law Center in the Supreme Court case, *Nevada Dep't. of Human Resources v. Hibbs*, in which a former employee sued alleging a violation of the provision of the Family Medical Leave Act (FMLA) that requires employers to grant leave without pay for up to 12 weeks to an employee for the purpose of caring for a sick relative. At issue is the constitutionality of the FMLA; specifically whether Congress had authority to enact it. This case follows in a string of cases in which conservatives have challenged Congress's authority to enact civil rights laws. This "federalism" rollback of civil rights threatens to undermine a broad range of protections established over the last quarter century.

In this case, Nevada argued that it was not subject to the FMLA because the 11th Amendment provides it immunity from suit. The FMLA authorizes suit against an employer "including a public agency" in any state or federal court. The United States Court of Appeals for the Ninth Circuit found that this language was a clear statement of intent to abrogate sovereign immunity. It then analyzed whether Congress had the authority to do so under the 14th Amendment. The Ninth Circuit acknowledged that while the requirement for leave was not required by the 14th Amendment itself, Congressional legislation that sought to remedy discrimination prohibited by the 14th Amendment was not precluded. It agreed with the position of the federal government that leave policies to care for relatives were designed to protect women, who historically have been seen as primary caregivers in their families. It then held that examination of the legislative record to establish a history and pattern of unconstitutional discrimination is not necessarily required to establish a valid remedial enactment by Congress. Unlike prior decisions of the Supreme Court involving age and disability discrimination laws, that are subject to the rational basis test, the FMLA is subject to heightened scrutiny, because it seeks to redress a history of gender discrimination. Therefore, the challenger of a statute addressing gender discrimination has the burden of proving the absence of longstanding and widespread discrimination. In addition, the court found that the legislative record supports legislative authority. When heightened scrutiny is involved, courts have more latitude in drawing inferences from the legislative history. The court also found that the provision in question is remedial in nature when considered in light of the background of discrimination against women in employment and state involvement in such discrimination, which the court documented at length.

The *amicus* brief the ACLU joined argued that because the FMLA is targeted at gender stereotypes that are both the causes and products of unconstitutional gender discrimination, the law falls squarely within Congress' traditional authority, and that Congress was not required to make extensive legislative findings in support of this authority because the Supreme Court's own extensive case law invalidating state practices that rest on gender stereotypes provides an ample record. Argument before the Supreme Court is scheduled for early 2003.

Knussman v. State of Maryland

In 2001, the Women's Rights Project along with the ACLU of Maryland secured a major victory in *Knussman v. State of Maryland*, when a federal appeals court ruled that the Maryland State Police should be held liable for its discriminatory treatment of a male state trooper who was denied leave to care for his newborn baby because of a policy that limited parental leaves of absence to "mothers only." The decision by the Fourth Circuit Court of Appeals was an important step toward gender equality in America.

In 2002, the case went back to the district court for retrial as to the amount of damages to be awarded to Mr. Knussman, and the $375,000 damage award by the jury was reduced. Although we were disappointed by the reduction in monetary compensation awarded to Mr. Knussman, he has said all along that "this case has never been about the money. . . it is about taking a stand for family values, and for holding the government responsible when it violates employees' constitutional and civil rights."

Combating Sex Role Stereotypes

Oiler v. Winn Dixie

The Women's Rights Project has long been committed to dismantling sex role stereotypes, whether applied to women or men, boys or girls. Working with the ACLU Lesbian and Gay Rights Project and the ACLU Legal Department, we represented Peter Oiler, a truck driver for Winn Dixie supermarket in Louisiana who was fired because he cross-dressed off the job. In this Title VII case, we alleged that the firing was based on gender stereotyping and thus constituted unlawful sex discrimination. In September 2002, the district court granted defendant's motion for summary judgment, holding that the firing did not violate Title VII.

Other Supreme Court Employment Discrimination Cases

Chevron U.S.A., Inc. v. Echazabal

In 2002, the U.S. Supreme Court unanimously held that an employer may defend against a lawsuit brought under the Americans with Disabilities Act (ADA) by claiming that it denied an employee a job because the job posed a risk to the employee's health. Although the statute explicitly permits employers to deny a job to a disabled individual if the individual's health condition poses a risk to others, the Court held that an EEOC regulation provided the employer justification for refusing to hire the plaintiff, Mr. Echazabal, because due to his condition the job posed a risk to himself. In collaboration with the ACLU LGRP and the Legal Department, the Women's Rights Project wrote an *amicus* brief arguing against this conclusion. We based our arguments in part on the fact that civil rights laws have been enacted precisely to prevent such discriminatory paternalistic legislation, such as labor laws that historically denied women opportunities "for their own good."

The plaintiff in this case worked for an independent contractor at a Chevron oil refinery and twice had applied for a job at Chevron. Both times, he was turned down because of his liver disease and Chevron's doctors' conclusions that his liver might be damaged by exposure to the solvents and chemicals in the unit. Mr. Echazabal filed an ADA complaint with the Equal Employment Opportunity Commission (EEOC), and Chevron defended based on the EEOC regulation.

The Supreme Court found the EEOC regulation valid, even though the ADA does not contain language about threat to oneself, because it held that the qualification standards for the employer defense contained in the statute were not an exclusive list. The Court also minimized concerns about paternalism by employers because it found that individualized risk assessments are required by the regulation, and that generalized group stereotypes would not be adequate.

Swierkiewicz v. Sorema

In a unanimous decision, in February 2002, the Supreme Court held that an employment discrimination complaint need only contain "a short and plain statement of the claim showing that the pleader is entitled to relief" and not the specific facts establishing a prima facie case of discrimination. This is the outcome that the ACLU sought in a joint *amicus* brief drafted by the National Employment Lawyers Association. Had the Court ruled otherwise, it would have made it easier for employers to dismiss valid lawsuits and more difficult for employees to seek and obtain redress for discrimination they suffered.

Equal Employment Opportunity Commission v. Waffle House

In January 2002, in a 6-3 decision, the Supreme Court held that a binding arbitration agreement between an employer and an employee does not bar the EEOC from pursuing victim-specific judicial relief in an ADA enforcement action on behalf of the employee. The Court held that the EEOC's statutory authority to sue an employer and seek injunctive and monetary relief is unaffected by the existence of an arbitration agreement. The ACLU had joined the National Employment Lawyers Association and the Trial Lawyers for Public Justice in filing an *amicus* brief in this case arguing that an employer cannot force its workers to waive their right to seek EEOC representation in pursuing discrimination claims.

Poverty and Welfare

Women in the United States are much more likely than men to be poor. This is in part because of gender segregation in employment, which keeps women in lower-wage, traditionally "feminine" jobs, and in part because of barriers to women's entry into high-wage labor. Women are also poorer than men because they are much more likely to take on the responsibility of caring for children and other dependents. Caregiving is expensive and the time it demands makes women less able to support themselves and their dependents through paid work. Because women are the vast majority of those who care for children and are at greater likelihood of poverty, they make up the vast majority of welfare recipients. Thus, conversations about welfare policy and welfare administration are really conversations about how to address women's poverty. Through its participation in welfare litigation, the Women's Rights Project seeks to advance core ACLU values, such as privacy, equality, and due process of law. Such work is a necessary part of advancing the full citizenship rights or women, people of color, and the poor.

Challenging Discriminatory Child Exclusion Policies

In 2002, the Women's Rights Project continued its efforts to overturn punitive and discriminatory welfare policies that deny benefits to children born while their mothers are receiving welfare. Since the passage of the fed-

eral welfare reform law in 1996, states may choose to exclude these children from receiving welfare benefits. In an attempt to force poor women to have fewer children, many states have adopted such policies. As a result, these state governments treat equally poor children differently based on the circumstances of the family into which they were born, and families who have a child while receiving welfare grow steadily poorer.

These child exclusion laws, sometimes called "family caps," unfairly punish a child for the conduct of his or her parent, denying the child necessary support because his or her parents are poor and have been unable to become self-sufficient. Such an attempt to influence parental behavior by punishing children is very similar to laws many states had on the books decades ago, which denied benefits to children who were born to unmarried parents. These laws are now universally understood to be unconstitutional.

Child exclusion policies also infringe on women's rights to make their own decisions about whether and when to have children. By denying benefits to any child born to a family receiving welfare, child exclusion policies attempt to coerce poor women's reproductive choices. These policies have been successful in doing just that. Research has shown that in at least one state with a child exclusion policy – New Jersey – the policy has meant that more women on welfare obtain abortions. Not only do child exclusion policies discriminate against children on the basis of the circumstances of their birth and infringe women's reproductive rights, research has also shown that child exclusion policies do not make it more likely that welfare recipients will obtain paid employment or otherwise move toward self-sufficiency.

Sojourner v. New Jersey Department of Human Services

The Women's Rights Project, in cooperation with the ACLU of New Jersey, the NOW Legal Defense and Education Fund, and the New Jersey law firm Gibbons, Del Deo, Dolan, Griffinger & Vecchione, represents a class of women who have been injured by New Jersey's child exclusion policy. In 2002, the Project continued its efforts to overturn this policy by demonstrating that it violates the New Jersey Constitution's guarantees of equal protection and privacy. Angela B. and Sojourner A., the named plaintiffs in the case, vividly demonstrate the hardships caused by these policies. Angela B. is the mother of four children, two born while she was receiving welfare assistance and therefore excluded from New Jersey's welfare program. Because her two youngest daughters do not receive welfare benefits, the family consistently runs out of food before the end of the month and must rely on food pantries and other charitable sources to eat. They have unstable housing, living in shelters, with relatives, and with friends, and because of their insufficient welfare benefits, Angela B. worries constantly about being homeless. Sojourner A. is the mother of two children, one of whom does not receive welfare benefits because she was born while the family was receiving assistance. Because of the hardships her family experienced as she tried to raise two children with benefits meant to support only one, when Sojourner A. became pregnant a third time, she had an abortion rather than having an additional child who would be excluded from receiving welfare assistance.

In 2002, the Appellate Division of the New Jersey Superior Court heard arguments that the policy violated the New Jersey Constitution. While acknowledging that such policies affect

women's decisions about whether to have children, the court found that the Child Exclusion did not unconstitutionally burden the plaintiffs' rights to make procreative decisions. The Women's Rights Project has appealed to the Supreme Court of New Jersey, and the case will be argued in early 2003.

Mason v. Nebraska

The Women's Rights Project, in cooperation with the Nebraska ACLU, submitted an *amicus* brief in support of the argument that application of the Nebraska child exclusion to families in which the parent was disabled and unable to work violated Nebraska's welfare laws. In the trial court, the plaintiffs successfully argued that since the child exclusion had been adopted as a means of promoting work, the Nebraska legislature had not meant the law to be applied to families headed by disabled parents, since these parents had been found unable to work. In the face of the state's appeal, the Women's Rights Project argued to the Nebraska Supreme Court that an additional reason for adopting the plaintiffs' interpretation of the welfare statute was to avoid the difficult constitutional questions that would otherwise arise under Nebraska's recently adopted Equal Protection Clause. Nebraska's Equal Protection Clause, the Women's Rights Project argued, provides more vigorous protection for individuals' rights than does the federal Equal Protection Clause. The child exclusion, which discriminates between similarly situated children solely on the basis of their parentage, violates the Nebraska Constitution, the Project argued in its *amicus* brief. Arguments will be heard in *Mason v. Nebraska* in early 2003.

Investigating Discrimination in Welfare Programs

Gender Steering in Job Training

To move off of welfare and out of poverty, women must have the opportunities to train and compete for good jobs with high wages. Often, this means seeking employment in industries that have typically employed men. For this reason, when welfare programs pressure women into seeking traditionally "feminine" jobs they shortchange women, lessen women's chances to work their way out of poverty, and violate the law. In response to a complaint from a male participant in an employment training program that he was not being permitted to train for or apply for certain fine manufacturing jobs because these were "women's jobs," the Women's Rights Project, in cooperation with the ACLU of Northern California and the Employment Law Center of the Legal Aid Society in San Francisco, has begun to investigate gender steering in job training components of welfare programs in Northern California. The organizations have jointly submitted Freedom of Information Act requests to selected job centers in Northern California and will analyze the information obtained through these requests for evidence of gender discrimination in job training programs.

Discrimination on the Basis of Race and Disability

Because women (and their children) make up the vast majority of welfare recipients, the Women's Rights Project seeks to combat all forms of discrimination in the administration of welfare programs. In February 2002, the Wisconsin affiliate of the ACLU filed a complaint with the Office of Civil Rights (OCR) of the U.S. Department of Health and Human

Services alleging numerous failures of the W-2 state welfare program to comply with the Americans with Disabilities Act and the Rehabilitation Act in screening for and accommodating participant and applicant disabilities. The complaint also described racial disparities in the granting of W-2 extensions and the application of sanctions and asked for a general investigation of race discrimination in the program. The complaint relied in large part on guidance issued by OCR addressing state welfare programs' obligations to disabled applicants and participants. In cooperation with the Wisconsin ACLU, the Women's Rights Project is monitoring OCR's response to the complaint and if necessary will join the affiliate in bringing litigation pressing these claims.

Legislative Advocacy

In 2002, Congress turned its attention to reauthorization of the Temporary Assistance for Needy Families program. The ACLU urged Congress to protect all welfare recipients against discrimination, to insure that recipients' due process rights are protected, and to provide meaningful opportunities for welfare recipients to move out of poverty by training for high-paying jobs. Congress is expected to pass legislation reauthorizing and altering the welfare program in 2003, and the ACLU will continue to seek to improve this legislation.

VIOLENCE AGAINST WOMEN

The Women's Rights Project is dedicated to combating discrimination against victims of domestic violence, whether perpetuated by landlords or housing authorities; employers; child protective service agencies; or others. Women make up the vast majority of victims of domestic violence, and a significant percentage of women will experience domestic violence at some point in their lives. Discrimination against victims of domestic violence means that battered women will be more likely to hide the abuse they are suffering rather than seeking help and that they will have fewer resources available to protect themselves and change their lives. As one means of fighting such practices, the Women's Rights Project works to teach courts and advocates that discrimination against domestic violence victims is a form of illegal gender discrimination.

Seeking Equal Housing Opportunities for Battered Women

Working With Policy Makers

Reports from around the country indicate that domestic violence victims are too often refused rental opportunities or evicted from their apartments because of the violence against them, sometimes under misguided policies that punish all members of a household when criminal activity occurs within the household. If women know that they may be evicted if their landlord learns about the violence in their home, they will be less likely to make the violence public by seeking help from the police or the courts. It is often extraordinarily challenging for a woman experiencing domestic violence to break away from a dangerous relationship, and it is even more difficult if she fears that taking appropriate measures to make herself safe could cause her to be evicted, leaving her homeless. Conversely, if the violence does become public and battered women do lose housing opportunities, the possibility of homelessness further threatens their safety. For low-income women, housing discrimination on the basis of domestic violence increases this dan-

ger, because of the limited availability of public or subsidized housing.

In partnership with other women's rights organizations, fair housing groups, and domestic violence advocacy groups, in 2002 the Women's Rights Project sought to cooperate with the United States Department of Housing and Urban Development (HUD) to develop plans to prevent victims of domestic violence from being discriminated against in public housing. In response to advocacy by the Women's Rights Project and other groups seeking to protect battered women from housing discrimination, Congress had directed HUD to formulate plans to prevent discrimination against victims of domestic violence in the conference report accompanying the bill that appropriated funds to HUD for 2002. As a member of the coalition, the Women's Rights Project urged HUD to clarify to public housing authorities that it is impermissible to terminate the tenancies of domestic violence victims as a result of the actions of their abusers; to instruct public housing authorities to adopt transfer policies that are responsive to the needs of domestic violence victims who must leave their current housing immediately; and to prohibit public housing authorities from denying anyone admission to housing or imposing discriminatory requirements upon them because in the past they have been victims of domestic violence. Informed by these recommendations, HUD is currently preparing extensive guidance for public housing authorities on the subject of domestic violence, which is expected to be released for comment and review in 2003.

Partnering with NYU Law School

The Women's Rights Project has created a partnership with the Public Policy Advocacy Clinic at New York University Law School to combat housing discrimination against victims of domestic violence in New York City. Women are the vast majority of individuals affected by such policies, and thus under fair housing laws, these policies are a form of illegal gender discrimination. During the 2002-2003 academic year, three NYU law students will engage in advocacy and education in New York City on the issue, reaching out to residents of public housing and conducting "know your rights" sessions. The Women's Rights Project, in turn, will assist and supervise the law students in these efforts and will represent clients in any litigation that arises from this outreach. New York City domestic violence organizations Sanctuary for Families and Safe Horizons are assisting the Women's Rights Project and the NYU law students in this project.

Rucker v. Davis

In 2002, the U.S. Supreme Court decided *Rucker v. Davis*, a case challenging a HUD policy that permits public housing authorities to evict a tenant whenever any member of a tenant's household or any guest of a tenant engages in drug activity, even if the tenant did not know about the conduct and could not have prevented it, and even if the conduct occurs off HUD premises. The Supreme Court found that despite the injustice worked on individual tenants who may become homeless as a result of events beyond their control, such a policy did not violate federal law or the Constitution.

Because the case raised the issue of whether an innocent tenant may be evicted for others' behavior, the same question raised by evictions of domestic violence victims, the Women's Rights Project had monitored the case closely and had worked with other ACLU lawyers, as well as attorneys representing domestic violence organizations, to prepare two *amicus*

briefs in the case. One of these briefs focused on the particular problems posed by such policies in the context of domestic violence. While in the drug use context, the Supreme Court found eviction of innocent tenants permissible, public housing authorities are not required to act in this manner, and the Secretary of HUD has urged housing authorities to exercise their discretion wisely and consider each case on its own merits. Nevertheless, in the face of the Supreme Court's decision, the Women's Rights Project's efforts to persuade HUD to issue strong guidance to housing authorities making clear that eviction of domestic violence victims is impermissible and otherwise setting out appropriate practices for addressing domestic violence are all the more important.

Warren v. Ypsilanti Housing Commission

The ACLU of Michigan, in consultation with the Women's Rights Project, filed a lawsuit against the Ypsilanti Housing Commission in Ypsilanti, Michigan, in February, 2002, on behalf of a woman who was evicted from her apartment in public housing because she was a victim of domestic violence. The lawsuit alleges that the landlord's rule, which requires eviction when a crime occurs in the tenant's apartment, discriminates against women in violation of state and federal law if applied to victims of domestic violence. The ACLU of Michigan is working on the lawsuit with the Fair Housing Center of Washtenaw County.

State Legislative Action

In 2002, the Rhode Island affiliate of the ACLU, in consultation with the Women's Rights Project, worked with the Rhode Island Coalition Against Domestic Violence to pass legislation banning landlords from evicting tenants solely because they are the victims of domestic violence or because they have obtained a restraining order against an abuser. The bill was spurred by a complaint from a victim of domestic violence that the Rhode Island ACLU received and successfully resolved last year.

Defending Battered Mothers: *Nicholson v. Williams*

New York City's child protective services agency has long operated under a policy of removing children from the custody of battered mothers under a theory that these mothers "engaged in" domestic violence and thus endangered and neglected their children. Women who lose custody of their children on the basis of such charges often do not regain custody for weeks or months, during which time their children will often be traumatized and sometimes endangered as a result of entering the foster care system. Women have lost custody of their children even when they severed all contact with their batterers and even when the violent incident that led to the removal of children was the first such incident in the relationship. Such a policy blames women for the actions of their batterers. It also, paradoxically, can reinforce the authority of the batterer, since a common threat batterers make to control victims is that if the victim tells anyone about the violence, she will be blamed and will lose her children. Finally, and perhaps most importantly, the fear of losing their children should the violence become public serves as an incredibly powerful incentive for battered mothers to hide and deny the violence, rather than seeking help.

New York City mothers who lost custody of their children under this policy sued New York City in federal court in a case called *Nicholson v. Williams*. The court held that the policy vio-

lated mothers' and children's constitutional rights. In 2002, the Women's Rights Project submitted an *amicus* brief supporting these plaintiffs in the face of the city's appeal of the trial court's decision. In the brief, the Women's Rights Project argued that the policy should be understood as a form of gender discrimination prohibited by the United States Constitution. A decision in the appeal is expected in 2003.

CRIMINAL JUSTICE AND LAW ENFORCEMENT

Challenging Improper Searches

All women, particularly women of color and poor women, are susceptible to police abuse. Unreasonable searches not only violate women's constitutional rights, they often involve women's humiliation and degradation as well. The ACLU has long fought to preserve an individual's right to be free from improper searches. The Women's Rights Project and ACLU affiliates around the country are guarding this right for women.

Bradley v. U.S. Customs Service

Working with the ACLU of New Jersey, the ACLU Legal Department, the New York Civil Liberties Union, and the New Jersey law firm Lowenstein Sandler, the Women's Rights Project was counsel in *Bradley v. U.S. Customs Service*, a federal lawsuit charging the U.S. Customs Service with racial and gender profiling. The case was filed on behalf of Yvette Bradley, a young African-American woman who was subjected to a humiliating physical search at Newark Airport upon her return from a vacation in Jamaica.

In 2001, the district court granted the U.S. Customs Service's motion to dismiss the case. In June 2002, we appeared before the U.S. Court of Appeals for the Third Circuit to argue that the search of Ms. Bradley violated her Fourth Amendment right to be free from unreasonable search and seizure and the Equal Protection Clause of the Fourteenth Amendment. In July 2002, the Third Circuit unfortunately affirmed the district court's ruling. This loss ended Ms. Bradley's case in which she sought to speak out against the treatment she received and to fight gender and race profiling.

Hurn v. U.S. Customs Service

Along with the same co-counsel as in *Bradley*, the Women's Rights Project also litigated *Hurn v. U.S. Customs Service*, a second racial and gender profiling case against U.S. Customs for an illegal strip search of Patricia Hurn, an African-American woman at Newark Airport. In September 2002, the district court granted defendants' motion to dismiss and we did not file an appeal.

Kaukab v. Major General David Harris

In 2002, the ACLU of Illinois filed a lawsuit alleging that an Illinois National Guardsman and private security personnel at O'Hare International Airport engaged in an unnecessary, unjustified, illegal, and degrading search of Samar Kaukab, a 22-year-old United States citizen of Pakistani descent. The lawsuit alleged that Ms. Kaukab was pulled out of a group of airline passengers and subjected to repeated and increasingly invasive searches based on her ethnicity and her religion. Ms. Kaukab's religion was evident because she was wearing a hijab, a traditional head covering for Muslim women.

"The entire experience was degrading," Ms. Kaukab said. "I felt as though the security personnel had singled me out because I didn't belong, wasn't trusted and wouldn't be welcomed in my own country. Nothing like this ever happened to me before. When it was over, I went to the restroom to gather my emotions and telephoned my mother. I was just so humiliated."

Lawyers for the ACLU cited the search of Ms. Kaukab as one of the numerous documented instances across the nation in which Muslims and persons of Middle Eastern or South Asian descent have been the target of discrimination.

Liner v. City of Kearney

In 2002, the ACLU of Nebraska filed a lawsuit against four police officers and the City of Kearney, Nebraska, in federal court to challenge the police search of 16-year-old Holly Rae Liner. The lawsuit alleges that on the evening of December 28, 2000, the Kearney Police Department executed a search warrant on the home of Ms. Liner's stepfather. Ms. Liner answered the door in her pajamas and was greeted by four officers who entered the premises while pointing their loaded weapons at her head.

During the search of the premises, the police conducted a pat-down search on Ms. Liner and her siblings. At the time, Ms. Liner was menstruating and wearing a sanitary napkin – she informed the officers of her condition to explain the bulge in her groin area. Ms. Liner was taken to the bathroom by a female officer, who then conducted a strip search.

The 16 year old was ordered to remove her pajama bottoms and underwear, and then subjected to the humiliation of a body cavity search. She was ordered to "squat and cough" while the officer watched, and further required to remove her tampon and feminine napkin in the officer's presence. The officer completed this humiliation by providing Ms. Liner with another tampon, but then watched while Ms. Liner inserted it. After permitting her to dress, the police ordered her out of the house at night without allowing her to call her mother or another adult and without allowing her to gathering her belongings or to put on weather-appropriate clothing and shoes.

The lawsuit claims that the police violated Ms. Liner's Fourth Amendment rights to be free from unreasonable detention and search, that she was treated differently based on her gender in violation of her Fourteenth Amendment rights to Equal Protection, and that the Kearney police infringed on her fundamental right to liberty and human dignity under the Due Process Clause of the Fourteenth Amendment. The suit also asks the court to prohibit Kearney Police from performing strip searches on menstruating women in the future and to create a plan for training and education for their officers, and seeks compensatory relief for Ms. Liner.

Lanoue v. Woonsocket Police Department

In 2002, the ACLU of Rhode Island filed a lawsuit against the Woonsocket Police Department on behalf of a woman who was strip-searched and left naked in a holding cell for more than five hours after being arrested for "driving under the influence" one night last winter.

The lawsuit is on behalf of Joann Lanoue, who was involved in a car accident and taken to the police station, where she refused to take a breathalyzer test. A female police officer then forced her to strip. According to the complaint, all of Ms. Lanoue's clothes were then taken from her, and she was left fully naked in a

holding cell for approximately five to six hours, with a camera located directly in front of the cell. After this five-hour-plus detention, a male police officer came by and threw Ms. Lanoue's clothing into the cell. She was released from the police station the next morning, and the driving under the influence charge was ultimately dismissed.

The ACLU lawsuit calls the treatment of Lanoue "demeaning, dehumanizing, undignified [and] humiliating." The suit argues that it is well-settled law that a strip search of an arrestee who is charged with a minor offense is unconstitutional absent a reasonable suspicion that the person is concealing a weapon or contraband, and that the Department's actions violated Ms. Lanoue's clearly-established constitutional right to be free from unreasonable searches and seizures. The lawsuit seeks a court order declaring the police department's conduct unconstitutional, as well as compensatory and punitive damages.

Women in Prison

The number of women in prison in the United States is growing rapidly. This increase has placed additional pressure on a criminal justice system that did not have the capacity to adequately address women's needs in the first place. Women prisoners have never received adequate medical care, they have been the victims of sexual harassment and rape, they have received less favorable education and work opportunities than those afforded to male prisoners, and they have suffered unique burdens associated with being the primary caregivers in their families.

Through litigation, advocacy, factual investigations, and public education, the Women's Rights Project, in cooperation with other ACLU Projects, ACLU state affiliates, and other organizations, is working to respond to this increased incarceration rate for women, their conditions of confinement, and the disparities in services and treatment that they receive.

Everson v. State of Michigan Dept. of Corrections

In 2001, the ACLU of Michigan submitted an *amicus* brief in *Everson v. State of Michigan Dept. of Corrections (MDOC)*. For years, there had been a persistent and well-documented problem in women's prisons of male guards raping and sexually harassing women prisoners and then retaliating against anyone who complained about such treatment. To address this problem and to settle a class action lawsuit on behalf of female inmates, the MDOC agreed to assign only female corrections officers to the areas where women dress, shower, and use the toilet. In response to this policy, some guards sued the MDOC for employment discrimination based on gender.

The ACLU's *amicus* brief argued that while gender-specific assignments should be legal in only rare circumstances, those circumstances existed in this case, for several reasons. First, there was no blanket ban on employing men in women's facilities. Second, the policy would not cause any male officer to lose pay, promotion opportunities, or seniority. Third, there was no adequate gender-neutral alternative available to protect inmates' safety and privacy. Lastly, given the female inmates' history of cross-gender abuse prior to incarceration, same-sex supervision was necessary for their rehabilitation.

In 2002, the district court issued a 75-page decision finding that the MDOC failed to show that gender was a bona fide occupational quali-

fication – BFOQ – for corrections officers in the housing units of female prisons, that it was reasonably necessary for their normal operations, and that there was no reasonable alternative to employing female corrections officers in such positions. The MDOC has appealed to the U.S. Court of Appeals for the Sixth Circuit. The WRP plans to work with the ACLU of Michigan if it drafts an *amicus* brief.

Cox v. Homan

The ACLU of Michigan also sued the Livingston County Jail for the sexual harassment of women prisoners who have been treated deplorably for years. In addition, the lawsuit challenged the jail's unequal treatment of male and female inmates with respect to "work release" programs. This class action lawsuit is aimed at striking down a recent state law that deprives inmates of state protection against race, gender, religious, and disability discrimination.

Women on Death Row

In collaboration with the ACLU National Prison Project and Capital Punishment Project, the WRP is investigating the growing number of cases of women on death row and developing strategies to combat the problems they face. We have administered a questionnaire to all women on death row through their criminal defense attorneys asking about their conditions of confinement. The Capital Punishment Project has reviewed the completed questionnaires and is analyzing the responses contained in them. In addition, we submitted initial and supplemental requests pursuant to state freedom of information laws to all facilities housing women on death row requesting data on the services available to these inmates. We have done the initial analysis of these responses and are in the process of drafting the report.

Disparities in Services for Girls in Detention

The Women's Rights Project, in partnership with the ACLU Legal Department and the Juvenile Rights Division of the Legal Aid Society of New York, is collecting data that may illuminate disparities in programs and services for girls in juvenile detention compared to those offered to their male counterparts. In 2001, we worked jointly with the NYU Robert F. Wagner School of Public Service Capstone Program to research the needs of girls in the juvenile justice system in New York State, and the services and facilities available to meet those needs. The students conducted a vast literature review and prepared a report that identified gaps in services for girls provided by the New York State Office of Children and Family Services (OCFS). In 2002, we submitted a New York State Freedom of Information Law request to OCFS seeking information we need to better assess the structure and quality of services provided. We have begun to review and analyze the documents received in response to that request and may prepare supplemental requests if additional information is required.

We will then enter the second phase of this investigation, which is to conduct interviews of girls currently and previously detained, their parents or guardians, staff at the detention facilities, juvenile court judges, and experts in juvenile justice. We will also visit the detention facilities. Once armed with both this qualitative and quantitative data, we will be better equipped to implement reform strategies designed to improve services for girls and eliminate disparities that exist.

Simultaneously, the Women's Rights Project and the ACLU legal Department are working with the ACLU of Pennsylvania, the ACLU of Pittsburgh Chapter, and the Juvenile Law Center to investigate gender-based disparities in the juvenile justice system in Pennsylvania. There, we have gathered data directly from the detention facilities about the services they offer to boys and girls. Once the process of data collection is completed, we will start to run analyses to determine what conclusions we can draw. Interviews of juveniles and facility administrators are also underway in Pennsylvania.

PREGNANCY AND NEW REPRODUCTIVE TECHNOLOGIES

Defending Against the Pregnancy Police

Efforts to restrict women's freedom to make choices about their own lives have long centered on women's pregnancies. For instance, laws or rules keeping women out of certain jobs were in the past often justified by the explanation that such rules were necessary to protect the fetuses that women might carry. Today, similar reasoning has led some lawmakers and prosecutors to attempt to impose criminal child abuse or homicide charges on women who engage in behavior during pregnancy that they believe threatens the fetuses.

Kentucky v. Harris

On February 13, 2002, a Kentucky woman named Misti Harris gave birth to an infant that allegedly showed signs of drug withdrawal. Thereafter, Kentucky prosecutors charged Ms. Harris with felony child abuse, claiming she had taken the drug Oxycontin while pregnant. This charge was brought despite the fact that the Women's Rights Project had litigated and won a case in the Kentucky Supreme Court in 1993 called *Kentucky v. Welch*, which clearly established that Kentucky's child abuse statutes did not apply to a woman's actions during her pregnancy. In *Welch*, the Kentucky Supreme Court joined the courts of twenty-one other states that have refused to prosecute women for actions taken during their pregnancy that could harm their fetuses. As the Kentucky Supreme Court explained, permitting such prosecutions opens the door to prosecuting pregnant women for using legal substances such as tobacco or alcohol, or for skiing, or breaking the speed limit, under the theory that they endanger their fetuses by doing so. The *Welch* Court concluded that such an interpretation of the statute would be unconstitutional, both because it would be unclear to pregnant women what was forbidden under the law and what was permitted and because it would permit women to be subjected to extensive state investigation and control during pregnancy.

Not only have almost all courts considering the issue rejected applying criminal laws to acts a woman undertakes during her pregnancy that may harm her fetus, public health experts have denounced such laws. When a pregnant woman is subject to criminal prosecution if her drug use is detected, these experts explain, she will avoid seeking medical care during her pregnancy. For this reason, public health groups are nearly unanimous in their opposition to such prosecutions, as they effectively drive drug-addicted pregnant women away from all-important prenatal care, as well as substance abuse treatment.

Despite the nearly unanimous opinions of courts and experts who have considered the

issue, Ms. Harris was prosecuted for child abuse based on her alleged drug use during pregnancy. The Women's Rights Project, working with the Reproductive Freedom Project and the Kentucky ACLU affiliate, assisted Ms. Harris's attorney in fighting the charge and submitted an *amicus* brief arguing that charging her with child abuse based on her acts of self-abuse during pregnancy threatened her constitutional right to be free from criminal prosecution under *ex post fac*to or overly vague laws and violated her right to privacy in reproductive decision-making. On the basis of these arguments and the *Welch* ruling won by the Women's Rights Project almost a decade before, the trial court dismissed the charges against Ms. Harris. The Commonwealth has appealed this ruling, however, and the Women's Rights Project will continue to monitor the case as it proceeds in the Court of Appeals.

Georgia v. Moss

In 2002, the ACLU of Georgia also fought against the prosecution of women for acts of self-abuse during pregnancy. In Georgia, when a drug-addicted woman gave birth to twins, one alive and one stillborn, the state brought murder charges against her. The Georgia ACLU, working with the Georgia Association of Criminal Defense Lawyers and the Georgia Indigent Defense Council, filed an *amicus* brief in support of a motion to dismiss the case on constitutional grounds. The state chose to drop the prosecution.

Attacking Florida's "Scarlet Letter" Statute

In 2002, Florida enacted a law that horrified the country. The law requires a mother who wishes to place her child with a private agency for adoptions and does not know how to contact the child's father to take out newspaper ads for four weeks in every city in which the child may have been conceived. These ads must give the mother's name and a physical description of her, the child's name and age, the names and physical descriptions of every boy or man with whom she has had sexual relations during the year preceding the child's birth, the cities in which conception may have occurred, and the dates on which conception may have occurred. The statute makes no exception for women who became pregnant through rape or incest or for minors. It constitutes an outrageous invasion of women's privacy (and of the privacy of those men whose sexual histories are published in newspapers without their consent). Advocates believe that the prospect of public humiliation posed by the law's requirements will force many women to seek abortions when they otherwise would have chosen to carry their children to term. Even worse, Florida enacted the law in the absence of any evidence that this was an effective means to give notice to fathers that their children were being given up for adoption. A far better alternative, used by the majority of states, is a paternity registry, which allows men who believe they may have fathered a child to officially record their interest in the child. These registries must be searched before the parental rights of unknown or missing fathers may be terminated.

Four mothers seeking to place their children for adoption sought a declaratory judgment in Florida's courts that the statute was an unconstitutional invasion of their privacy. Despite the fact that the State of Florida did not appear to defend the statute, the trial judge upheld the statute in large part, finding that it only unconstitutionally violated the privacy of victims of forcible rape. All other women, including minors and victims of incest and statutory rape,

continued to be subject to its requirements. The Women's Rights Project worked with the ACLU of Florida and the Reproductive Freedom Project to overturn this ruling, consulting with attorneys for the mothers and filing an *amicus* brief arguing that the statute violated women's right to privacy under the Florida and the United States Constitutions. A decision from the Court of Appeals is expected in 2003.

Investigating Discrimination in Insurance Coverage

The Women's Rights Project is investigating disparities in insurance coverage for infertility treatments, such as in vitro fertilization and artificial insemination, based on marital status and sexual orientation. Some policies that we have reviewed offer insurance coverage for such procedures, but limit access to "married women" or women below a certain age, for instance. We have conducted research on various potential claims to challenge these discriminatory policies and may bring litigation if appropriate.

PUBLIC ACCOMMODATIONS

Opening Doors for Women

Social and civic clubs, where citizens forge valuable relationships that help them become leaders in their professions and their communities, are one of the last bastions of open discrimination on the basis of gender. In 2002, the controversy over whether women should be permitted to become members of the exclusive Augusta National Golf Club focused public attention on those doors that remain officially closed to women. State public accommodations laws, which forbid discrimination on the basis of gender in organizations that are not small and exclusive enough to be truly private, have opened valuable opportunities for women to participate fully in their communities with the same supports and advantages as men. Even in the face of these laws, discrimination continues, however, and this year the Women's Rights Project continued to work to ensure that public accommodations were open to women as well as men.

Orendorff v. Elks Lodge

Since 1982, Bonnie Orendorff worked as an assistant cook and waitress at the local Elks Lodge in Rome, New York. It was while working at the Lodge that she met her husband, Roger, a long-time member. Over the years, as she worked and socialized at the Lodge, she observed the charitable activities it undertook and the valuable business and professional contacts that the members of the Lodge made, and she wanted to participate in these activities and benefit from these networks too.

Despite the fact that in 1995 the national Elks organization had amended its constitution to allow women to join the Elks, and despite the fact that since then local lodges all over the country had not only admitted women, but had elected them to leadership positions, the Rome Elks Lodge had never admitted a woman. Nevertheless, Ms. Orendorff and two other women applied for membership. They were rejected, though no male applicant had been rejected for at least twenty years. They applied again, and were rejected again.

The Women's Rights Project, with the New York Civil Liberties Union and cooperating attorney Karen DeCrow, brought suit on Ms. Orendorff's behalf, seeking an order requiring the Lodge to comply with the Elks rules forbidding discrimination on the basis of gender. The

suit also argues that a provision in state law allowing benevolent orders to discriminate while forbidding such discrimination by other similar clubs is unconstitutional because it encourages and protects discrimination against women. The case was argued in 2002, and a ruling is expected at any time. "I have high hopes that this case will turn out wonderfully for me and all women," Ms. Orendorff said. "I have every intention of becoming an Elk of the Rome Lodge."

Corcoran v. German Society Frohsinn

A regular visitor to the bar operated by the German Society Frohsinn in Mystic, Connecticut, Sam Corcoran decided she would like to become a member of the society. She made this decision in part based on the business opportunities that she believed membership in the club would provide. Ms. Corcoran, who runs a bed and breakfast, had met and hired contractors as a result of her time at the club, and was eager to further explore the networking possibilities that membership would provide. The club had approximately 200 members, all of them men, and rarely or never rejected membership applications from men. While at one time membership in the club had been limited to individuals of German heritage, that requirement had long been done away with to boost membership. In short, with a large and open membership, the club is not the sort of organization traditionally recognized as private and exempted from the nondiscrimination requirements of the public accommodations laws. Nevertheless, club members refused to give Ms. Corcoran an application, explaining that it was because she was a woman.

In consultation with the Women's Rights Project, the Connecticut Civil Liberties Union brought an administrative complaint with the Connecticut Commission on Human Rights and Opportunities challenging the German Society's discrimination. In 2002, the Women's Rights Project joined the Connecticut Civil Liberties Union as co-counsel in the case and Ms. Corcoran withdrew her administrative complaint and sought relief in court. Discovery in the case is currently ongoing.

Other Public Accommodations Efforts

In 2002, the Washington, D.C. affiliate of the ACLU pursued its administrative complaint with the D.C. Office of Human Rights in *Harrison v. Loews Cineplex Entertainment*, challenging Loews' failure to provide sanitary facilities for women in numbers at least equal to those provided to men in its D.C. movie theaters. The complaint alleged that the failure to do so violated the D.C. Human Rights Act, which prohibits discrimination based on gender with regard to the "facilities" of a place of public accommodation. Loews has made changes in some of its theaters in response, and the parties are hoping to reach settlement.

EDUCATION

Defending Coeducation

In 2002, the Bush Administration announced that it intended to amend the regulations implementing Title IX – the law that prohibits gender discrimination in schools that receive federal funding – to make it easier to establish single-sex classes and schools. While interest in single-sex education as a method of responding to the needs of both girls and boys has increased in recent years, there is a lack of evidence that single-sex education (rather than other characteristics often present in the single-sex programs studied, such as small class sizes,

more educational resources, and well-trained teachers) benefits students. In addition, studies have shown that single-sex education programs often have the troubling effect of reinforcing gender stereotypes about girls' and boys' needs and abilities.

The ACLU submitted comments opposing any efforts to weaken the federal law's requirements for gender equality in schools or to encourage gender segregation in education. When boys and girls go to separate schools or attend separate classes, the likelihood that they will receive markedly different educational program reflecting gender stereotypes skyrockets. Separating boys and girls in order to educate them sends the message that that there are innate differences in their skills and abilities, and thus encourages inequality in education based on such supposed "differences." In addition, single-sex schools and classes rob students of the opportunity to learn how to negotiate a gender-integrated world.

The Women's Rights Project will continue to monitor the Administration's efforts to promote single-sex classes and schools and will continue to fight for educational opportunities open to all, regardless of gender.

Combating Sexual Harassment in Schools

Peer and Sexual Harassment Prevention Program

Recognizing that many schools lack a policy to protect students from becoming victims of serious harassment, the ACLU of Ohio established a peer and sexual harassment prevention program. The initiative included developing a handbook for students to help them recognize and respond to harassment, and a workshop curriculum for teachers, administrators, and counselors to help them establish school policies to create a safe, respectful school environment.

Litman v. George Mason University

In 2002, the Women's Rights Project also supported Annette Litman in her sexual harassment suit against George Mason University. Ms. Litman was a student at George Mason University when she was sexually harassed by one of her professors. She complained to the University, but found that after she complained, other professors in the department were unwilling to work with her. After she wrote an angry email to some of these professors, they brought charges of sexual harassment against her. As a result, she was ultimately expelled. In 2001, a federal trial court in Virginia threw out her claim that the University had unlawfully retaliated against her for making a sexual harassment complaint, finding that while the law prevented the school from retaliating against students complaining of sexual harassment, it did not provide students with any right to enforce this rule in court. Under the court's ruling, a student's right to be free from retaliation when protesting against a school's gender discrimination is essentially meaningless.

The Women's Rights Project joined in an *amicus* brief prepared by the National Women's Law Center appealing this decision to the U.S. Court of Appeals for the Fourth Circuit. The brief argues that the right to be free from gender discrimination necessarily includes the right to be protected from retaliation for complaining of gender discrimination, and since the law is clear that a student can sue in court to enforce the first right, she must also be allowed to sue in court to enforce the second. The case is currently before the Fourth Circuit.

Protecting the Rights of Pregnant Students

The Virginia Military Institute

The Women's Rights Project along with the ACLU of Virginia and the National Women's Law Center has been monitoring the Virginia Military Institute's new pregnancy policy that makes pregnancy a grounds for dismissal from the academy, even though federal law prohibits schools from discriminating against students based on pregnancy or parenthood. While the policy technically punishes both female students who become pregnant and male students who impregnate someone, in actuality it is clear that women, whose pregnancies will be readily apparent, will be harmed by this policy while male students will be unscathed unless they affirmatively report the pregnancies of their partners. As a result, the policy cannot be implemented fairly. Having been instrumental in paving the way for women's admission into VMI and the Citadel in 1996, the Women's Rights Project is particularly concerned about efforts to use pregnancy as a means to deny female cadets access to educational opportunities once they are enrolled. The WRP has communicated its concern about VMI's pregnancy policy to officials at the school and may take legal action if appropriate.

Bradley v. National Honor Society

In 2002, the Women's Rights Project wrote a demand letter on behalf of a high school senior in Alabama who was removed from the National Honor Society after she informed the school that she was pregnant. Ms. Bradley, who had been admitted to the NHS in the spring of her sophomore year, continued to have excellent grades and strong public service, but nevertheless was dismissed from the NHS at the beginning of her senior year after informing the school that she was pregnant. Her father attempted to negotiate a resolution for several months, but was unsuccessful. We agreed to handle the case, sent a demand letter outlining why the Faculty Council's decision to revoke Ms. Bradley's NHS membership violated the Equal Protection Clause, Title IX, and the NHS's own policy handbook, and began to prepare a complaint and motion for preliminary injunction. One week after we sent the letter, however, the school agreed to rescind the removal and readmit Ms. Bradley to the NHS. We hope to continue to monitor the situation to ensure that the school does not take similar discriminatory action against other pregnant students.

Tucker v. Board of Education

The New York Civil Liberties Union in 2002 represented Takenya Tucker, an eleventh grader in Brooklyn, whose son was enrolled in the school's childcare program. Ms. Tucker took the school bus to school everyday, but one day was told by the Office of Pupil Transportation that her son could not accompany her on the bus. Attorneys from the Reproductive Rights Project contacted the Office detailing their objections to the discriminatory policy and the Board of Education reversed it.

ACLU Foundation of Southern California – Latina Rights Project

In March 2002, ACLU Foundation of Southern California initiated a Latina Rights Project. The Project's mission is to address priority civil rights issues facing Latina women and girls in California, using a multi-strategic approach that combines model litigation, bilingual/bicultural public education, and public policy advocacy to

address issues of educational equity, and access to health care and reproductive rights. Working in collaboration with community-based advocates and a multi-disciplinary Advisory Board, the Project strives to serve as a bridge among diverse civil rights advocacy communities, addressing barriers to access and opportunity, while promoting Latinas' self-empowerment through a gender and cultural lens. The Project's Director, Staff Attorney, Rocio Cordoba, works in conjunction with the Advisory Board of attorneys, community-based advocates, scholars, and other inter-disciplinary professionals with expertise in the Project's priority areas. In September 2002, Equal Justice Works Fellow, Araceli Perez, joined the Project.

Other Public Education Efforts

In 2002, the North Carolina ACLU, in consultation with the Women's Rights Project and the Reproductive Freedom Project, designed and printed a public education pamphlet entitled *Rights of Pregnant and Parenting Students in North Carolina* for distribution to activists, high school guidance and counseling centers, and clinics around the state. This brochure informs young women about their educational rights in North Carolina, including the right not to be discriminated against or segregated in special schools or classes against their will on the basis of their pregnancy or status as a parent.

Also in 2002, the New York Civil Liberties Union conducted research to determine whether pregnant and parenting teens are able to achieve equal educational opportunities. The results of one survey showed that some public schools refuse to even consider enrolling pregnant students in good academic standing, while others actively discourage them from enrolling. Attorneys from the NYCLU's Reproductive Rights Project held a press conference on the broad issue of discrimination against pregnant and parenting teens in New York City public schools, after which they met with city representatives and submitted proposals to the Board of Education's General Counsel and the Deputy Mayor's Office.

ATHLETICS

Leveling the Playing Field

In recent decades, girls' and women's participation in athletics has surged at enormous rates, proving that when you give girls and women opportunities to compete, girls and women come to play. This year, the ACLU continued to press to expand the opportunities.

Bellum v. Grants Pass

The city of Grants Pass, Oregon, provided state-of-the-art playing fields for local boys' baseball leagues to play on. The boys' leagues had unlimited use of these exclusive fields. Meanwhile, year after year, the girls' softball league was forced to compete with numerous other community leagues to play a few hours a week on crowded, poorly maintained diamonds with few facilities or amenities to attract spectators or community support. Because the girls' league, unlike the boys' leagues, had no home field, it was unable to raise money through concession stands or outfield advertisements, and thus was unable to travel to certain high profile tournaments that attract college scouts and scholarship dollars. Because the fields on which the girls played were poorly maintained, they regularly faced the risk of injury and spent time they otherwise could have devoted to practicing or playing to attempting to restore the fields to a usable condition. Without the batting cages, bullpens, and

regulation-sized fields provided to the boys' leagues, the girls' league had fewer opportunities for its players to develop their skills. Finally, girls' softball players, their parents, and their coaches had enough. In 2002, the Women's Rights Project, co-counseling with the ACLU of Oregon, the ACLU of Southern California, and cooperating attorney Jim Dole, on behalf of girls aged eight to eighteen in the softball league, sued the city for gender discrimination in violation of the United States Constitution, the Oregon Constitution, and the Oregon public accommodations law. The suit seeks to require the city to create a high quality, dedicated field or fields for girls' softball, comparable to those currently provided for boys' baseball.

While many cases have been brought challenging schools' discriminatory treatment of female athletes or their lack of support for girls' athletics in comparison to boys', this is one of the first cases seeking to hold a city to its responsibility to provide equal recreational opportunities for male and female athletes. Such litigation represents the next wave of the movement for equity in athletics, as girls demand equal treatment not only from schools, but also from the municipalities that provide youth leagues and playing fields to the community. Equal treatment from the cities and towns that provide recreational opportunities is especially important in the sport of softball, where the highest level of competitive play and the majority of college recruitment does not occur in school leagues, but in community leagues, which typically play on municipal fields.

When female athletes are given a level playing field, figuratively and literally, they are given the opportunity to succeed. When they are not, both they and their communities receive the message that their efforts are simply less important than boys'. "Because people have never watched softball or learned to understand it, they think softball is an easy, 'girlie' sport," said Karyne Sanders, a plaintiff in the case who plays first and second base for the softball league. "If we had a real field to play on that was comfortable for spectators, like the boys do, I believe people would come to our games and learn otherwise." Plaintiff Ashley Bellum added, "I think it's unfair that the boys' baseball leagues are provided their own dedicated fields with excellent facilities, but our softball league is not. We are just as competitive, and even have a better playing record than the boys, but the boys are made to feel superior to us because they have better facilities and so more people come to watch their games." In the summer of 2002, as a result of the suit, the city provided more field time to the girls' league on the single field in the city of regulation size for fastpitch softball. Negotiations with the city regarding a permanent solution to the problem continue. "I think the city of Grants Pass has been irresponsible in letting the differences in the support given to girls= softball as compared to boys= baseball get to this point," said Ms. Sanders. "We are showing the city that it is time to change."

Baca v. City of Los Angeles

In 2002, the ACLU Foundation of Southern California continued to monitor a settlement agreement between the City of Los Angeles and West Valley Girls' Softball league (WVGS), a league of more than 500 girls ranging in ages 5 to 15, who were denied equal access to city-owned fields made available to boys' baseball leagues. For years, the girls were forced to spend significant time and resources to secure piecemeal temporary permits to play in sub-standard local area school fields. Indeed, the girls and their families had to carry their own

dirt at their own expense to improve the only fields made available to them. In contrast, the City not only provided boys' baseball teams with permanent access to city-owned fields with ample amenities, but also *sponsored* three boys' baseball leagues in the West Valley. In a 1998 lawsuit, the ACLU alleged that the City's denial of girls' equal access to public programs, services and facilities, and equal opportunity to play sports, perpetuated gender-based stereotypes that historically have denied women equal protection of the laws and thus constituted gender discrimination under the federal and state constitutions, and Section 51 of the Unruh Civil Rights Act.

Following months of negotiations and then extensive discovery, the City produced an offer to plaintiffs and responded through a series of public hearings before the City Council on the issue of gender equity in sports raised by the lawsuit. In February 1999, the City Council unanimously approved the "Raise the Bar" program, creating, for the first time in Los Angeles history, a policy and program that addressed gender equity in youth sports. In 2001, the West Valley Girls' Softball League celebrated opening day of its first season at its own home field.

However, in June and September 2002, plaintiffs submitted letters to the City regarding its failure to provide ongoing public reporting on implementation of the "Raise the Bar" program. In December 2002, plaintiffs' counsel, Rocio Cordoba, provided testimony before the Board of Commissioners concerning the program. The testimony praised the City for demonstrated increases in girls' sports participation rates following the Program's adoption, but raised concerns and recommendations about areas that continue to need improvement, including a need for initiatives that promote sports participation among low-income, inner city girls.

Athletics Equity in Schools

Title IX, the federal law prohibiting gender discrimination in most educational programs, is best known for its requirement of gender equity in school athletics. Despite Title IX's mandate for gender equity in sports programs, discrimination and inequality in athletics is a fact of life for many girls and women. In response to this continued problem, the Ohio affiliate of the ACLU has created the "Put Me In, Coach" initiative, which provides resources to help young people, parents, coaches and administrators understand the impact of Title IX on women and girls in sports. A handbook, workshops, and speakers are available to provide an overview of the applications of Title IX, how to assess a school's compliance, and what steps can be taken if discrimination in athletic programs is encountered.

Supporting Title IX

In 2002, the Bush Administration announced its intention to revisit the regulations and guidelines issued under Title IX addressing gender equity in athletics. A "Commission on Opportunity in Athletics" has been appointed to reexamine the standards that have resulted in an enormous surge of female participation in school athletics since the passage of Title IX. It is expected to issue a report in early 2003 suggesting the revision of many of these standards. Many advocates expect the report to call for significant weakening of Title IX's requirements for equal opportunity in athletics. The Women's Rights Project, as a member of the National Coalition for Women and Girls in Education, will oppose any such efforts to roll back the clock on girls' and women's sports.

INTERNATIONAL HUMAN RIGHTS

The Convention on the Elimination of all forms of Discrimination Against Women

The United States has yet to ratify the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). Although the United States signed the treaty in 1980, it has yet to join 168 other countries that have ratified it. Working with the ACLU National Legislative Office, the Women's Rights Project has been lobbying the United States Senate Foreign Relations Committee to ratify CEDAW. In July 2002, the committee voted 12-7 to approve the treaty. The committee's action cleared the way for a possible vote by the full Senate, but as of yet no such vote has occurred.

CEDAW defines discrimination against women as any distinction, exclusion, or restriction made on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. Recognizing that discrimination against women violates the principles of equal rights and human dignity and is an obstacle to the participation of women in the political, social, economic, and cultural life of their countries, the Convention also sets up an agenda for national action to end such discrimination.

Efforts to Bring International Human Rights Home

The Women's Rights Project is an active member of a New York City coalition that seeks to draft and pass legislation for local implementation of the principles of CEDAW and the Committee on the Elimination of Racial Discrimination (CERD). An ordinance implementing the principles of CEDAW was passed in San Francisco in 1998. That ordinance serves as a model for the law we seek to pass in New York City.

In addition, the Women's Rights Project participates in Columbia University's Bringing Human Rights Home Lawyers Network, which seeks to use international human rights in domestic litigation and other efforts. In January 2003, the Network will sponsor a forum at Columbia Law School on Litigating U.S. Claims before the Inter-American Commission on Human Rights. The discussion will focus on the advantages and disadvantages of the system and how Inter-American litigation might fit into a larger advocacy campaign on U.S. human rights' issues.

In 2002, The Women's Rights Project also worked with the Center for Economic and Social Rights, the International Women's Human Rights Law Clinic, and the Center for Constitutional Rights in preparing an *amicus* brief raising international human rights arguments to support our challenge to New Jersey's child exclusion welfare law that denies benefits to children born into families already receiving welfare.

IN MEMORIAM: MARY MAXINE (SALLY) REED

Sally Reed, the plaintiff in *Reed v. Reed*, a 1971 case in which the Supreme Court ruled for the first time that the Constitution prohibited discrimination on the basis of gender, died on September 26, 2002. Although she did not seek the spotlight, her case changed history. In this case, Reed and her ex-husband both sought to be appointed administrator of their son's estate, after his untimely death at age 16. An Idaho law, however, provided that preference must be given to males over females in estate administration, and thus the court appointed her husband administrator. Reed appealed this ruling, represented by Boise attorney Alan Derr. When the case reached the United States Supreme Court, Ruth Bader Ginsburg, then director of the ACLU Women's Rights Project, co-wrote the brief that persuaded the Court to hold that the state law violated the 14th Amendment to the Constitution. Correspondence between Justice Ginsburg and Mr. Derr attest to the strengths of this brave woman, as do the obituaries that appeared in her local papers. The Women's Rights Project honors Sally Reed as a hero who changed constitutional law to guarantee equal treatment for women.

[letter from RBG; letter from Alan Derr; two obits]

NEW STAFF

JENNIFER ARNETT LEE joined the staff of the Women's Rights Project as a Skadden Fellow in October 2002. Her project focuses on low-wage Latina workers' rights in the New York area, including freedom from sexual harassment and discrimination, and full and fair wages for their labor. Jennifer's project includes three components: community outreach, community education, and litigation. The outreach involves collaboration with a broad range of community organizations that serve working latinas, including workers' rights organizations, Latinos' rights organizations, and service agencies. To further community education, Jennifer will conduct know-your-rights workshops for working women at community organizations, including the Latin American Workers' Project, Make the Road by Walking, and The Workplace Project. Jennifer is also preparing a pamphlet on working women's rights in Spanish and English. The pamphlet covers discrimination, sexual harassment, wages and hours, and family medical leave, with a specific emphasis on issues of concern to domestic workers and undocumented immigrants. Jennifer is also initiating a legal clinic for Latina workers at the Dominican Women's Development Center in the Washington Heights neighborhood; this clinic may be expanded to other collaborating organizations and neighborhoods. As part of the litigation component of the Latina Workers' Rights Project, Jennifer will represent workers in proceedings before city, state, and federal administrative agencies and in state and federal lawsuits.

Before joining the WRP, Jennifer clerked with Judge Louis H. Pollak in the Eastern District of Pennsylvania. Jennifer graduated from Columbia Law School in 2001 where she was the Editor-in-Chief of the Columbia Human Rights Law Review and published a law review note, titled *Women Prisoners, Penological Interests, and Gender Stereotyping: An Application of Equal Protection Norms to Female Inmates*. She spent her law school summers as an intern at the Center for Justice and International Law, in Costa Rica, and at Catholic Charities' Department of Immigrant and Refugee Services. Before law school, Jennifer was a researcher at Homes for the Homeless, where she implemented research projects focused on homeless women and children. Jennifer also received a Masters in International Affairs, conferred simultaneously with her law degree in 2001, from Columbia's School of International and Public Affairs. As a graduate student, Jennifer worked with the Legal Department of the Center for Human Rights Legal Action, in Guatemala, and the Latin American and Caribbean Program of the Lawyers' Committee for Human Rights. Jennifer received a bachelor's degree in Political Science, International Relations, and Spanish from Kansas State University in 1996.

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