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Contributors

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As you’ll read in this issue, the ACLU has launched a new plan to divest from the police and amplify the importance of voting. Long before the coronavirus, we saw securing everyone’s right to vote as the best way to safeguard democracy. These pages reflect our efforts to expand voting by mail during the pandemic and our push for early processing of absentee ballots to avoid unnecessary delays on Election Day.

Our ongoing work also continues, as described in this issue, whether it’s demanding reform to an unjust bail system, fighting for the equality of trans youth, or litigating to ensure reproductive health care remains open to all.

In my 19 years as executive director of the ACLU, I have never been more concerned about the future of civil liberties. With our government attacking peaceful protesters, President Trump fanning the flames of racial division and partisan acrimony, a pandemic still raging, and a national election looming on the horizon, I have never been more worried about what lies ahead.

At the same time, I have never felt more inspired by the strength and resiliency of the ACLU community. With resolve, we will persist—and push for a fairer, more equitable country, one where “We the People” truly means all of us.

Anthony D. Romero
Executive Director
In late May, the country convulsed with uprisings to demand justice in the police killings of Breonna Taylor, Tony McDade, George Floyd, and countless others from the Black community, and to insist on fundamental changes to the role of law enforcement. In violation of demonstrators’ rights, local police and federal troops—backed by the authoritarian urgings of the Trump administration—responded with even more brutality, attacking protesters and journalists with vehicles, tear gas, pepper spray, rubber bullets, batons, arrests, and lies. As America reckons anew with its long history of racial injustice, the ACLU is launching its vision for the future of policing.

Militarization, lack of accountability, and runaway spending have all corrupted the modern police force, but white supremacy is embedded in its DNA. Policing’s 19th-century origins were to protect commercial divestment in the Police

The country confronts systemic racism and demands immediate change for law enforcement.

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Garvenchy Nicolas leads demonstrators in New York City to protest long-standing and unchecked police violence against Black people.

PHOTOGRAPH BY MICHAEL NOBLE JR.
interests, which in the South manifested as vigilantes deputized to enforce slavery laws and terrorize enslaved people. Through Reconstruction and the Jim Crow era, these forces evolved to menace and control communities of Black people and immigrants, while protecting white power and privilege. This over-policing has bred an unchecked mass incarceration crisis and a lawless culture in which murdering unarmed Black people goes unpunished.

The ACLU’s commitment to combating police violence and addressing systemic racism is nearly as old as the organization itself. In 1931, the ACLU was instrumental in producing the government report Lawlessness in Law Enforcement, and subsequent historical flashpoints—the Watts Rebellion, unrest after the Rodney King beating—resulted in nationwide advocacy against racial profiling and abusive law enforcement tactics. But it is clear that new, more aggressive strategies are needed.

The ACLU is working with Black- and Brown-led organizations to limit law enforcement’s authority by prohibiting arrests for nonserious offenses, ultimately cutting the number of annual arrests—10.3 million—by half. Police budgets collectively total more than $115 billion annually. The ACLU supports divesting departments of funding and redirecting the savings to community-based initiatives that bolster public health and safety in communities historically targeted by the police. Furthermore, the ACLU advocates for enforceable legal constraints whereby the use of deadly force by police is proscribed in all but the most absolutely necessary cases. Taking these actions will increase stability and resources in these communities, better aligning our social investment with our national values and constitutional ideals.

“Together with our partners and allies,” says ACLU Executive Director Anthony D. Romero, “the ACLU will help reimagine an effective and far more limited role for police in our country; implement changes that will save lives, advance civil rights, and safeguard liberties; and create the conditions to start repairing decades of harm and violence inflicted on over-policed communities of color.” — JAY A. FERNANDEZ

Contact Congress
Contact your legislators today and demand they end federal programs that arm local police with military-grade weapons and put excessive numbers of police on the streets and in schools.

Visit aclu.org/divestpolice to take action.

Litigation
Alabama is one of nine states where the ACLU and partners have filed lawsuits challenging COVID-19-related emergency orders to ban abortion. Others include Arkansas, Iowa, Ohio, Oklahoma, Louisiana, Tennessee, Texas, and West Virginia.

Limited Access
The state had 963,000 women of reproductive age in 2018. Alabama restricts access to abortion for those younger than 18 without parental consent. Telemedicine to administer medication abortion is prohibited in Alabama.

Logistical Roadblock
The average one-way driving distance to a clinic would increase by 35 percent if Alabama shut down abortion clinics. That means 65 percent of Alabamians would have to travel 100-plus miles for out-of-state services.

Waiting Time
A patient is required to wait a minimum of 48 hours before abortion services may be provided. The patient must receive state-directed counseling, including information designed to discourage having an abortion.

How Alabama Is Blocking Access to Abortion
Long before the pandemic, the state of Alabama has been intent on trying to prevent people from getting abortion care. The ACLU has challenged seven laws in seven years aimed at shutting down clinics in the state, and just last year, successfully challenged Alabama’s near-total abortion ban. Now, as families struggle to make ends meet and remain healthy during the COVID-19 crisis, Alabama, like other states, is at it again—trying to restrict access to abortion. That’s why the ACLU’s fight for reproductive freedom is as essential and urgent as ever.
Unconscionably Detained

An ACLU report shows how the immigrant detention system is deteriorating—even as it expands—in a crisis.

In late April, as the COVID-19 pandemic raged past 1 million confirmed cases in the U.S., the ACLU, Human Rights Watch, and the National Immigrant Justice Center released a report titled Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration. Based on government documents, firsthand accounts, and visits to facilities in Arizona, Louisiana, and Mississippi, the report paints a harrowing picture of how conditions for immigrants have deteriorated in a for-profit system that has grown substantially in recent years.

The Trump administration has opened more than 40 new detention centers, many of them former prisons situated in remote locations and operated by private companies. With due process obstacles and diminished access to attorneys, immigrants and asylum seekers are often doomed to long-term detention. Inhumane conditions, including unavailable medications, delayed medical care, mistreatment, and abuse, are widespread.

The report makes a series of urgent recommendations, beginning with a dramatic change in operating procedures and the immediate reduction of the detained population by releasing people most at risk of contracting the coronavirus. Since March, the ACLU has filed more than 50 lawsuits and petitions to address the crisis, leading to the release of 400 clients. But with prisons, jails, and detention centers becoming vectors of infection—three of the facilities studied for the report already had confirmed cases of the virus—the untenable situation is reaching tragic, unconscionable dimensions.

“Even before this crisis, detained people were unable to receive basic care and were held in a culture of fear,” says report co-author Eunice Cho, senior staff attorney for the ACLU’s National Prison Project. “In a global pandemic, these conditions become especially deadly. This is not the kind of country we want to be.” —J.A.F.
Voting by mail isn’t partisan.

It’s common sense in a pandemic.

The coronavirus threatens to disrupt the presidential election this fall. Potential limits on in-person voting mean broad access to voting by mail is more essential than ever. The ACLU is expanding that access in dozens of states—and ensuring that voters who choose to vote by mail know how and when to cast their ballots.

by MARISA TAYLOR KARAS
When COVID-19 grew to epidemic proportions in the U.S. this spring, during the early weeks of primary season, the act of voting absentee or by mail was suddenly thrust into the spotlight. States instituted shutdowns, while public health officials cautions against group gatherings to avoid spreading the virus. Because of the crisis, now at risk was one of the public’s most important contributions to democracy: visiting a neighborhood polling site to make their voice heard—and vote.

Soon, states such as Iowa, Michigan, and Pennsylvania actively encouraged residents to avoid polling places and vote absentee in their primary elections, while Idaho, Kansas, and Nevada decided to hold their primaries entirely by mail. Multiple states rescheduled their primaries for later in the summer, and in some states, there were so many absentee ballot requests that it overwhelmed election officials, foreshadowing what could occur in November.

In Wisconsin, which opted to hold its primary election on April 7 as originally scheduled, nearly 1.3 million people requested absentee ballots from the state election commission, a fivefold increase from 250,000 in 2016. The U.S. Supreme Court struck down a federal court order that would have counted the absentee ballots that were postmarked up to a week after Election Day. In her dissent, Justice Ruth Bader Ginsburg wrote that “tens of thousands of absentee ballots were rejected for technicalities such as handwriting errors or if they arrived too late.”

For instance, voters with disabilities or limited English proficiency may need to go to the polls for assistance with their ballot, or because absentee materials are sometimes sent out only in English. And people of color, who have historically experienced voter suppression, may prefer to vote in person.

“We’re eliminating unnecessary requirements,” says Ho. “About a dozen states have absentee requirements, like requiring a witness to watch you fill out your ballot and sign your ballot envelope for extra verification. Some states require a notary or two witnesses. Obviously with social distancing protocols, that doesn’t make a whole lot of sense.”

And then there is the postage issue. “Most states say that you’re required to put postage on your mail-in ballot materials,” Ho notes. “We think that needs to be fixed. If that’s the safe way to vote right now, no one should have to pay for it.” (See “Poll Tax.”)

“One way or another, more people are going to vote by mail than ever before in American history.”
request forms—to all registered voters. Recent advocacy successes in Michigan and California mean millions of voters will automatically receive absentee ballots to every registered voter,” says Hoffman. “They haven’t reported a higher instance of voter fraud from absentee ballots were documented from 2000 to 2012 by the investigative database News21, out of more than 1 billion votes cast. Of the five states that are primarily vote-by-mail, ‘they haven’t reported a higher instance of voter fraud from other places and have been able to conduct elections in a secure and safe manner,” says Michael McDonald, a political science professor at the University of Florida and director of the United States Elections Project.

Whether or not more states open access to voting by mail, all signs point toward a massive increase in absentee ballot requests for the November election. States such as Connecticut, Georgia, and New York are preemptively mailing absentee ballot request forms to all registered voters in advance. “But other states will have to request absentee ballots themselves, an added step that can disenfranchise those who don’t have access to printers, the internet, or stamps. Add in a bottleneck capacity to mail out a vast amount of absentee ballots on time and problems getting them postmarked by Election Day, as occurred in Wisconsin, and the perfect storm of election dysfunction could arise. ‘Some of the deadlines are difficult to meet, especially if you’re dealing with large numbers of absentee ballots where they don’t typically get a lot,” says Sophia Lin Lakin, deputy director of the ACLU’s Voting Rights Project. “All of a sudden you have more people asking for absentee ballots, so there are delays in processing and burdens on the postal service to get this unprecedented number of ballots.”

Witness Requirement

In Virginia, a witness is required to sign each voter’s absentee ballot envelope, an impossibility for the segment of the population living alone in the era of social distancing. In April, the ACLU of Virginia and the League of Women Voters of Virginia sued the Virginia State Board of Elections and individual members of the board, challenging “the extreme burden the witness requirement places on voters in the current environment.” Plaintiff Erika Goff, a resident of Scottville, Virginia, who lives alone, feared that asking a witness to sign her absentee ballot envelope could jeopardize her health, especially because some of her neighbors exhibited symptoms of the virus in March. “I would have to violate social distancing practices and expose myself to another person outside my home in order to vote or have my ballot counted,” Goff says. As a result of the ACLU’s case, Virginia agreed to waive the witness signature requirement for the June 23 primary election, but at press time, hadn’t done so for the national election in November. The ACLU is also pursuing litigation in Minnesota and North Carolina, which both require witness signatures and secured a victory blocking a witness signature requirement on absentee ballots for South Carolina’s primary this past June.

Neither Democrats nor Republicans appear to benefit more from increased access.

The printing, tracking, and processing of so many more absentee ballots will require vendors to create them and staff to handle machinery and technology. And vendors will require a huge cash infusion to make it all happen. The $2 trillion stimulus bill approved by Congress in March allocated $400 million to the states for election administration—a mere fraction of the $4 billion that the Brennan Center for Justice at New York University Law School projected would be necessary to account for both the widespread use of mail-in ballots and for increased protection for in-person voters and poll workers. The ACLU is “doing advocacy on the federal level to try to make sure that subsequent rounds of legislation include funds for the states and for the postal service,” says Ho. “You can’t vote by mail if you don’t have a functioning postal service.”

Another potential issue that could disenfranchise voters has to do with the higher rate of mistakes made on mail-in and absentee ballots, likely because voters can’t ask poll workers for assistance. In the 2016 presidential election, 9.8 percent of mail-in ballots were counted and 1.4 percent were rejected, often due to mistakes such as a missing signature, the ballot not being received in time, or the lack of a matching signature to the one on file. From a report of the ACLU of Florida found that the signature-match problem happens disproportionately to young voters and voters of color—and that’s more, many states won’t notify voters of signature issues, meaning they won’t have a chance to correct their ballots in order for them to be counted.

“This is why [we’re asking] Congress to act,” to help prepare for this new way of doing elections during the pandemic “that’s going to be a reality,” says Lakin. “We believe strongly that there is time to do it and that states can do this well and will be able to carry it out, but they need resources.” It’s also why it’s important to protect in-person voters. “It’s more about mail out to the inevitable influx in absentee. ‘There’s a whole range of people who are going to need to have some kind of safe, in-person [voting] option,” says Ho, “and the key is a surge in federal funding.”

Securing people’s right to vote by mail isn’t a partisan issue—it’s simply common sense during a public health crisis. People shouldn’t be forced to choose between their well-being and their vote. “If the democracy isograded, ‘It’s the most vital part of civic society. It’s the foundation on which everything else gets filled.”
“I need to do what I have to do to get him the medical treatment he needs.”

State lawmakers introduced a near-record number of anti-transgender bills this year, including legislation that criminalizes children’s health care. The kids—and their parents—are fighting back.

Sam DeVisser, a 14-year-old trans boy, lives with his family in Meridian, Idaho.
A 12-year-old transgender girl, Cameron has gone through several favorite drivers but the first to catch her eye was the now-retired Danica Patrick, the first woman to win a major race in a field dominated by men. “I was just born loving NASCAR,” said Cameron over a Zoom call with her mom, Krista. “I don’t want to end up in trucks or the Xfinity or any other thing. I want to be in the Stock Car Cup.”

When Cameron was younger, she and her mom would sit on a footbridge over a highway near their Sioux Falls, South Dakota, home and watch the traffic go by. “We could sit right in the middle, and she could see the cars coming at us and going under us,” said Krista. “Before she could talk, I knew she was going to like NASCAR because she liked watching the cars zoom under us.”

Cameron is autistic and was a late talker, not speaking her first words until age 3. She remembers being in preschool, when the teacher divided the class between boys and girls, and she hesitated, lingering in the middle of the room. “I was born thinking I was a boy,” she said. When she was a little older than 7, she asked her mom for a dress for the first time. “I wanted a twirly dress, and one year later she made one for me. She knows that I am trans, and here I am today.”

Along with an estimated 150,000 transgender youth between the ages of 13 and 17 in the United States, Cameron now finds herself in the middle of a nationwide culture war over the identities of trans adolescents. Late last year, in response to a story about a 7-year-old Texas trans girl, Luna Younger, who was caught in the middle of a bitter custody battle, anti-LGBTQ politicians began to openly express their displeasure with the existence of trans children. Despite Luna being years away from any potential medical treatment and never meeting her in person, politicians in Texas voiced their concern that Luna was too young to know if she’s transgender. “There’s really no way that [these bills] could have passed and not immediately cut off care to kids who needed care in the future, and to young people who were receiving care as part of ongoing treatment—not just blockers, [but] affirming hormones as well,” says Chase Strangio, deputy director for transgender justice at the ACLU.

In response, state lawmakers across the country started introducing legislation that would ban or criminalize transition care for minors, including puberty blockers for prepubertal youth or gender-affirming hormones for older teens. Some bills even criminalized mental health care and forced school officials to disclose a young person’s trans or questioning identity to their parents. The first state to advance such legislation was Cameron’s home state of South Dakota. Earlier this year, Rep. Fred Deutsch introduced HB 1057, which sought to criminalize doctors and medical provid-
ers for administering gender-affirming care for trans minors. The bill was personal for Cameron. If HB 1057 passed, Krista would have to drive 250 miles just to provide her daughter with basic transition care. “She has her routine, she knows her doctor,” said Krista. “She would have to see an unfamiliar doctor. It’s hard enough [with] the doctor that you already know.”

Even as LGBTQ equality has progressed nationally, including the U.S. Supreme Court’s June ruling in an ACLU case that it is against the law to fire people for being transgender, the state has become a bellwether for anti-trans legislation. In 2016, South Dakota passed a bill, ultimately vetoed, that would have required trans students to use the school restroom and locker room facilities corresponding with their birth certificate.

In 2019, South Dakota legislators introduced four different bills targeting trans people, but none passed. The repeated legislative fights spurred the small but vocal trans community in South Dakota, and the state’s targeting of trans children brought parents and their networks into the fight fully for the first time. “By going after trans kids, it has galvanized many parents who before were either afraid to speak out or afraid to be public,” says Libby Skarin, campaigns director for the ACLU of South Dakota. “Here in South Dakota, if you’re on the front page of the newspaper, everybody knows about it, and they know that you go to this church or you go to this school, and they know who your kid is. It’s personal in a way that I think prevents some people from wanting to speak publicly. It’s the fact that we’re seeing these attacks year after year that parents are starting to get to a point where they’re like, ‘We’re sick of this.’”

A similar bill targeting gender-affirming care for trans youth was also introduced in Idaho this year, which became a worry for Elizabeth Allred and her son, Sam DeVisser. Sam is a 14-year-old trans boy living with his family in Meridian, Idaho. He’s been on hormone blockers for a few years and recently started testosterone. The legislation would block Sam from receiving the care he needs and has relied on for years.

Despite having been born and raised in the state and having an Idaho-based business, Elizabeth said that if the trans care ban passed, she’d have no choice but to uproot her family and move to a more affirming state. “We won’t be able to live here,” she said. “My son has already begun his transition...I need to do what I have to do to be able to get him the medical treatment that he needs.”

Moving is just not something she or her family wants. “My businesses are rooted here in Idaho,” Elizabeth said. “I’d have to start all over. We’d have to start at a new school. My older daughter is 18. She’s not ready to leave. She would have to come with us.”

It’s a calculation that many families with trans kids in conservative states are facing as more and more states look to impose control over their medical decisions. With so much intrusion, many young people themselves are beginning to speak out about their lives and rights, even to hostile state legislators.

Increasingly, having trans teens and young people speak directly with legislators has proven to be one of the most successful lobbying methods against bills like HB 1057. That is “the most powerful and effective lobbying that we have,” Strangio says. “I think it’s finding that balance between allowing parents and doctors to speak for trans youth versus figuring out ways to center the voices of the trans young people themselves.”

Another family in the middle of the South Dakota fight is Susan Williams—founder and executive director of the Transformation Project, a South Dakota–based nonprofit dedicated to lifting up the stories of transgender kids—and her 13-year-old trans son Wyatt, who both live in Sioux Falls.

Wyatt has always been different, according to his mom, rejecting any gender roles associated with being female. “At the time, he would [talk about] when he grew up, and said things like, ‘I’m gonna be a policeman,’” said Susan. “And I would say, ‘Oh, that’s great. You’ll be a policewoman.’ And he would be like, ‘No, I’d be a man.’”

According to Susan, Wyatt started to suffer from depression and would have angry outbursts starting in about third grade. And then one day he came home and burst into tears. “He came home from school and said, ‘I can’t do this anymore. I can’t be a girl anymore.’ And we [were] just bawling,” she said.

At that point, Susan and her husband brought Wyatt to therapy, where he was diagnosed with gender dysphoria, a medical condition where a person develops clinically significant distress because the person’s gender identity doesn’t match their sex assigned at birth.

But even after this diagnosis, the family resisted a social transition for their son. “I had never heard the words gender dysphoria before,” she said. “If you would’ve asked me what the word transgender meant, I wouldn’t have been able to give you a good answer. I had never knowingly met a trans person in my life.”

About a year later, Wyatt wrote an eight-page letter to his mom explaining who he is and how he needed to live. After reading it, the family decided to let him socially transition and go to school as Wyatt. Susan recalled that during recess on Wyatt’s first day at school, the teacher couldn’t find him in one of
January 29. The following Saturday, there was a test for the rights of trans kids. Cameron spoke at the rally for that Friday. Nevertheless, the local trans community quickly sprung into action. “We were of course freaked out—like we’ve got kids feel unwelcome], I think they have failed.”

Krista turned toward her daughter. “I always feel scared,” says Krista about her daughter speaking at the rally, before her daughter interrupted to ask why. Krista turned toward her daughter. “I always feel scared when you’re going to tell somebody that you’re trans because [you] never know how people are going to react,” Krista said. “But it was a whole group of trans [people] protesting against that bill,” replied Cameron. “I know,” said Krista. “I was scared, but I was also very, very proud.”

In the meantime, trans adolescents descended upon the capital in Pierre to lobby their lawmakers face-to-face. When HB 1057 reached the state Senate, it failed to advance out of committee. The bill in Idaho also failed to pass.

However, two other anti-trans bills, one banning trans girls from girls’ interscholastic and women’s intercollegiate sports, and another banning gender changes for trans people on birth certificates issued in Idaho, both passed and were signed into law on March 30.

The ACLU filed a lawsuit challenging the anti-trans sports bill on April 15, while the birth certificate bill was already subject to a previous federal ruling that the state must allow trans people to change their gender on key identity documents.

Skarin credits the lobbying work done by trans youth themselves for preventing passage of HB 1057. “Something that I think about a lot with South Dakota is that even though these bills have been defeated year after year, there is still a real burden that these bills place on trans youth and on their families,” she says.

That may be the point of repeatedly introducing these bills—to make trans people aware that they aren’t welcome in places like South Dakota and Idaho. The constant political debates about every minute detail of these children’s lives alone can have a deleterious effect on the mental health of trans youth, who are more likely to suffer from depression and anxiety than their peers who are not transgender.

“I think it would be wrong to say that the bill was defeated and nobody got hurt, because people definitely got hurt,” said Skarin. “Kids shouldn’t have to be fighting for their rights and begging their elected officials to recognize their basic humanity, and that’s exactly what they had to do this year.... These kids are willing to stand up, and their families are willing to be public about how wrong these bills are if the intent of these legislators in bringing these bills [was to make kids feel unwelcome], I think they have failed.”
The U.S. bail system is a racist, profitable machine that preys on people of color. Now, in a pandemic, it’s a driver of a public health crisis.
No one should be in jail because of inability to afford cash bail.

No one should be in jail because of inability to afford cash bail. No one should be in jail because of inability to afford cash bail. No one should be in jail because of inability to afford cash bail. No one should be in jail because of inability to afford cash bail.

The cash bail system is the fuel that keeps the engine of mass incarceration running in overdrive. Bail has a simple intent: It is collateral to guarantee that a defendant will show up for future court dates. But in practice, it targets the poor by encouraging police violence and racism at all levels, which also incent legal systems to increase arrests. When the system is held hostage by inability to afford fines or bail while disproportionately punishing Black and Brown communities. Billionaires are spent to perpetuate a system corrupted by police violence and racism at all levels, which incent legal systems to increase arrests.

In jails, most people sleep in dormitory-style bunk beds and have to fight for soap in communal bathrooms, so spreading the infection is inevitable. The arrest and detention of tens of thousands of protesters in recent months has only increased the severity of the situation.

In late April, the ACLU released a model built in collaboration with epidemiologists and statisticians that determined that nearly 100,000 more COVID-19 deaths will occur in jails than the government estimates unless radical action is taken. In the United States, jails see approximately 10.7 million admissions a year—one every three seconds—with an average stay of 25 days. On any given day, 700,000 people are detained there, and turnover is high. “With people cycling in and out of jail all day throughout the country, each person becomes a vector for the potential spread of the pandemic,” says Ofer. “You’re exposing that individual to incredible health risks, you’re exposing their families, and you’re exposing the broader community. No one should be in jail because of inability to afford cash bail. That was true before COVID-19 and it’s even more true after COVID-19. Because that pretrial detention could essentially become a death sentence.”

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Monte Carlo simulations; and they risk losing homes, jobs, and custody of their children. For many already living in poverty, they are presented with terrible choices. The cash bail system drives everyone down the economic ladder, which is why there is often bipartisan support for criminal law reforms that decrease incarceration rates and the financial waste of maintaining them.
Because reforming, diminishing, or eliminating the cash bail system would have a dramatic impact on incarceration rates and make things more socially fairable, the ACLU has focused much of its litigation and advocacy there. One potential precedent-setting case involves the Nashville Community Bail Fund (NCBF), a nonprofit organization that pooled a pool of donated money to pay bail on behalf of low-income people to secure their release. Local for-profit bail bondsmen lobbied Nashville judges to institute a rule that allows the court to extract money posted as cash bail to pay future fines on his assigned hearing date. The amount in dispute arrested on a charge of driving with a suspended with the commercial bondsmen was $115. For the first try, which makes millions of dollars off incarcerated
insurance companies that bear no risk, and subjects
its litigation and advocacy there. One potential
racially equitable, the ACLU has focused much of
future favorable ruling may encourage other non-
the government and that criminalizing poverty
generating the cash bail system would have a dramatic
its litigation and advocacy there. One potential
stages, and no other case in the country has done that.
After studying bail determinations in all 67 Penn-
sylvania counties over a two-year period, the ACLU of Pennsylvania filed a lawsuit last year that demands an end to illegal bail-setting practices in Philadelphia and includes important recommendations implemented,” says Hayden Nelson-Major, Independence Foundation fellow at the ACLU of Pennsylvania. “We see that as potentially setting up a model for change that we can then bring to the other 66 counties.
The ultimate goal is to end pretrial detention, to ensure that prior to someone having their day in court they never sit in a jail cell, for any reason, “says Woods. “The [other] goal is to end wealth-based pretrial detention, which is what cash bail perpetuates. So we’re trying to support the actors who are reducing harm and moving toward that world, and we’re trying to fight bad actors trying to us the status quo to protect their ‘bottom line.’
Securing the release of large numbers of people is an essential first step, but how we treat those re-entering their communities is no less important, especially in terms of containing the spread of the virus. While the health crisis in jails and prisons is devastating, the economic damage to vulnerable communities is even more far-reaching.
COVID-19 has further laid bare the injustice of a system that compounds the punishment of those already hit hardest.

“Cash bail has always been a matter of life and death for communities of color.”

burden on friends and family members striving to pay bail for detained loved ones.
In another case, in Montana, the ACLU is suing on behalf of a Missoula family that was terrorized at home by six armed bounty hunters sent by a bail bondsmen because the husband, who’d been arrested on a charge of driving with a suspended license, mistakenly went to the wrong courthouse on his assigned hearing date. The amount in dispute was $115. For the first time, the ACLU is suing all the players that thrive in the cash bail ecosystem—the bounty hunters, the bail bondsmen, the judges, the courts, and the insurance companies.

“The case has the potential to radically alter what accountability looks like for the for-profit bail industry, which makes millions of dollars off incarcerated people. It generates profits for large insurance companies that bear no risk, and subjects people to intrusive and often violent conditions,” says Andrea Woods, a staff attorney on the ACLU’s Criminal Law Reform Project who is lead counsel in both the Nashville and Montana cases. “We’re still lit-
igating that case, but we’ve survived a lot of difficult stages, and no other case in the country has done that.

After studying bail determinations in all 67 Penn-
sylvania counties over a two-year period, the ACLU of Pennsylvania filed a lawsuit last year that demands an end to illegal bail-setting practices in Philadelphia and includes important recommendations implemented,” says Hayden Nelson-Major, Independence Foundation fellow at the ACLU of Pennsylvania. “We see that as potentially setting up a model for change that we can then bring to the other 66 counties.
The ultimate goal is to end pretrial detention, to ensure that prior to someone having their day in court they never sit in a jail cell, for any reason, “says Woods. “The [other] goal is to end wealth-based pretrial detention, which is what cash bail perpetuates. So we’re trying to support the actors who are reducing harm and moving toward that world, and we’re trying to fight bad actors trying to us the status quo to protect their ‘bottom line.’

Securing the release of large numbers of people is an essential first step, but how we treat those re-entering their communities is no less important, especially in terms of containing the spread of the virus. While the health crisis in jails and prisons is devastating, the economic damage to vulnerable communities is even more far-reaching. Increasingly more people are being held in jail that shows

BY THE END of May, ACLU advocacy efforts had helped result in more than 23 executive actions in 35 states and led to the release of more than 35,000 people from jails and prisons (or kept them from entering the system in the first place).

POLICE MAKE more than 10 million arrests a year, most of which lead to jail, even though only 5 percent are for offenses that the FBI categorizes as violent. Curtailed arrests and halting pros-
cutural practices of requesting cash bail would cause an imme-
diate drop in jail populations by hundreds of thousands of people.

TO SUPPORT your state’s efforts toward rapid decar-
caustion yet we aim to end cash bail practices that funnel tens of thousands of people into an unjust system, volunteer for the ACLU’s Smart Justice Campaign.

Visit aclu.org/ smartjustice.

In April, the ACLU released a report, Rencey in the COVID-19 Era, that addresses the multitude of problems associated with formerly incarcerated people reentering their communities. These are people into an unjust system, volunteer for the ACLU’s Smart Justice Campaign.

Visit aclu.org/ smartjustice.

Advocating Decarceration

Good hygiene and social distancing
are nearly impossible in jails, prisons, and detention centers, making them
deadly vectors for the spread of COVID-19. To meet this urgency and protect vulnerable populations, the ACLU and local advocates have been pressuring state actors across the country, including governors, judges, prosecutors, and police, to reduce incarceration in two significant ways: by dramatically decreasing the number of arrests and ending cash bail practices.

In some ways, the pandemic demonstrates to stakeholders that not only is decarceration possible, it’s actually safer,” says Nelson-Major. “And that it’s not only possible, but possible quickly. The pan
demic has brought some moral clarity to just how important it is to work toward mass incarceration as is and how the misuse of cash bail has always been a matter of life and death for poor people and communities of color.”

What we’re working for is to make sure that this is a permanent change in the way Americans view the important, especially in terms of containing the spread of the virus. While the health crisis in jails and prisons is devastating, the economic damage to vulnerable communities is even more far-reaching.
COVID-19 has further laid bare the injustice of a system that compounds the punishment of those already hit hardest.
If you know the 2008 Obama “Hope” poster, you know artist and activist Shepard Fairey. He created that iconic image—as well as a poster of Lady Liberty for the ACLU’s 90th anniversary in 2010. Now he’s launched a partnership with Levi’s to mobilize voters during this critical election year. At the Art Basel art fair in Miami Beach last December, Fairey and Levi’s kicked off their collaboration with an event to benefit the ACLU. Guests made voting rights-themed posters using stencils of Fairey’s graphics, boosting awareness of the ACLU’s fight to ensure access to the ballot for all. —TOM VELLNER

The Art of Democracy
Shepard Fairey teams up with the ACLU and Levi’s to get out the vote.

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ON OUR BOOKSHELF

What does activism look like today? As the pandemic shines a harsh spotlight on widespread institutional failures and systemic racism, the public is answering the call for collective action and responsibility in new ways. Artist Daniel Zender explores how activism can take many forms—and serve as an energetic promise for a changed and fair future.

FREE FORUM

Surveillance Society

In The Machine Never Blinks: A Graphic History of Spying and Surveillance, writer Ivan Greenberg and illustrators Everett Patterson and Joseph Canlas deliver a raging primer on how the information age became twisted into the surveillance society. Their work of comics journalism details how governmental authorities and corporations abuse the security apparatus, facial recognition software, data harvesting, biometrics, and other surveillance tech in ways that suppress dissent and threaten our privacy, civil liberties, and sanity—without any real oversight. But, the authors stress, we the people have the power to resist. As Ralph Nader says in his foreword, “Our information can be either the currency of democracy or the profitable inventory for corporate coercion and government oppression. We must be stingy in what and how we give it away.” —JAY A. FERNANDEZ

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IN GOOD COMPANY

Behind the Battles

A new documentary follows ACLU attorneys as they fight on the front lines.

How far would—and could—you go for a cause? This is the question behind The Fight, a new documentary showcasing four pivotal ACLU cases during the Trump administration. Directed by Elyse Steinberg, Josh Kriegman, and Eli Despres (the team behind 2016’s acclaimed Weiner), the film is a timeline of constitutional crisis. At the heart of The Fight are its tireless protagonists: Lee Gelernt, deputy director of the ACLU’s Immigrants’ Rights Project, challenging the administration’s family separation policy; Brigitte Amiri, deputy director of the ACLU’s Reproductive Freedom Project, litigating the Jane Doe case against a ban on abortion for unaccompanied immigrant minors; attorneys Joshua Block and Chase Strangio battling the transgender military ban; and Dale Ho, director of the ACLU’s Voting Rights Project, blocking the proposed inclusion of a citizenship question on the 2020 census. The documentary, which debuted at this year’s Sundance Film Festival, offers behind-the-scenes insights into how civil liberties battles are fought and won, and illuminates the relentless, exhaustive work of litigation—its long nights and abundance of hope. —LAURA FEINSTEIN

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COURTESY OF MAGNOLIA PICTURES
Breaking Barriers on Broadway

Ali Stroker is making history and advocating for youth with disabilities.

NAME: Ali Stroker
LOCATION: New York
FOCUS: Disability Rights
ACTIVIST: Since 2011

Ali Stroker broke barriers when she won a Tony Award for her role as Ado Annie in Oklahoma in 2019—making her the first Broadway star who uses a wheelchair to win a Tony. Breaking Barriers as a trailblazer when she started chair to win a Tony. Ali Stroker didn’t think of herself just wanted to do it,” she says. Though Stroker has achieved enormous success, she notes how difficult it’s been finding patience while trying to prove herself as an actor with a disability. “But it’s so powerful to use the skills you’ve had to develop being a disabled person in the world, and to use those in your work,” Stroker explains. “Part of this is also finding your team and finding the people who, when you’re around them and talk about your ideas, make you feel good. You can’t do this alone.” —ELLY BELLE

How We Protest

By DeRay Mckesson

After George Floyd was killed by a police officer in Minneapolis on May 25, protests erupted across the country demanding justice for Floyd and the countless Black people murdered at the hands of American law enforcement. Thousands filled the streets, while lists of Black-led organizations to support, petitions, and calls to divest from police departments flooded social media. What follows are Black Lives Matter activis, DeRay Mckesson’s thoughts on modern protest, adapted from his appearance on the ACLU’s podcast, At Liberty, 10 days before Floyd’s death.

Protest is telling the truth in public. We’re saying, This is a truth that you tried to hide, that you tried to refuse to let us talk about, and we refuse to let you do that. Protest opens space for the solution; protest is not the solution.

The method has to meet the moment. In St. Louis, after Ferguson police killed Mike Brown in 2014, it was important that we protested in the street because if we didn’t, people would have acted like we didn’t exist. It took our bodies on the line. We had to remove the possibility that they could ignore us. But there are some places where being in the street isn’t necessary. I’m mindful that like protest, voting is one tool in the toolkit, and the only way to build a house is to use all the tools. I tell people to vote, not because it’ll automatically change the world, but because we’re trying to build a house. It’s the same with running for office:

We can’t always be the people on the outside fighting those on the inside. We have to be the person on the inside sometimes. It makes it easier to move things we care about. The goal isn’t to fight the system forever.

The goal is to make a system that works for people. I see people organizing in new ways every day. I see people who don’t identify as activists who’ve pushed us to think more deeply. Some of the most incredible ideas come from high school students, college stu-

DeRay Mckesson is at the center of an important ACLU case that threatens the right to protest.
I imagine an equal future with a gift in my will to the ACLU.

As a believer in equality and justice, I knew leaving a gift in my will was the right choice. If you share these values, I urge you to join me in leaving a gift for the future.

To learn more, please return the enclosed reply envelope or visit www.aclu.org/mylegacy.
I believe we can create a more just future. That’s why I’m leaving a gift in my will. With this gift, I’m passing along the values I’ve lived to the next generation of civil rights champions.

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