

# ACLU magazine

FOR PASSIONATE GUARDIANS OF CIVIL LIBERTIES

**Decades of housing discrimination led to mass evictions in a pandemic. ACLU client-activists are fighting back.**

## THE EVICTION CRISIS



# I support our freedoms.

I receive secure, fixed payments for life—regardless of the economy—through my Charitable Gift Annuity with the ACLU Foundation. With my gift, I am supporting the work of free speech, equal access to voting, and the right to protest.

With rates as high as 8.6%, learn more by returning the enclosed reply envelope to receive your no-obligation illustration or visit [www.aclu.org/annuity](http://www.aclu.org/annuity).



COVER: PHOTOGRAPH BY PRESTON GANNAWAY. PHOTOGRAPHS (CLOCKWISE FROM TOP LEFT) BY PRESTON GANNAWAY; JUSTIN J WEE; LEXEY SWALL; VICTOR JEFFREYS II

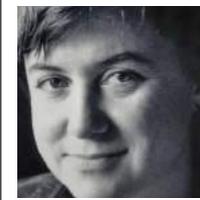


16

## CONTRIBUTORS



**Clio Chang** is a freelance writer based in Brooklyn covering politics, culture, and media. Her work has appeared in *The New York Times Magazine*, *The New Republic*, *Vice*, and more.



**Preston Gannaway** is a Pulitzer Prize-winning documentary photographer and artist. Published in *The New Yorker*, *California Sunday*, *Mother Jones*, and others, her work focuses on gender identity, class, and our relationship to the landscape.

# 10

## Drawing the Line

With the 2020 census complete, it's time to redraw state political lines. The ACLU is ready to thwart racial gerrymandering.

By Michael Hardy

# 16

## Housing Insecure

Discriminatory housing practices have always impacted Black women most—during the COVID-19 crisis, the effects could be staggering.

By Tasbeeh Herwees

# 24

## The Road to Reform

The ACLU is facing the racist War on Drugs head-on and pushing for real justice in marijuana reform.

By Jay A. Fernandez

On the cover: Diane Charity, co-founder of KC Tenants

## IN THIS ISSUE

### 02 In Brief

Executive Director Anthony D. Romero looks ahead for civil liberties.

### 03 Letters to the Editor

Readers from around the country respond to articles in the magazine.

#### FRONT LINE

### 04 Priorities

The ACLU challenges the new administration to confront racism.

### 06 Case Study

A federal weapons program and its enabling of police brutality must end.

### 07 Know Your Rights

Here's what you need to know about your rights while protesting.

### 08 National Report

Decriminalizing sex work has gained popular and political support.

### 09 Friend of the Court

ACLU Legal Director David Cole answers your most urgent questions.

#### VOICES

### 30 Run the Jewels

The hip-hop duo performed virtually to get out the vote last fall.

### 32 In Good Company

*Stamped: A Remix* helps teens identify and stamp out racist thoughts.

### 33 Free Forum

Artist Derek Abella illustrates what healing looks like in 2021.

### 34 Activist Spotlight

An ACLU People Power advocate in Fairfax, Virginia, is taking on ICE.

### 35 My Stand

We Testify founder Renee Bracey Sherman talks reproductive justice.

### 36 ACLU Moment

The promise of *Brown v. Board of Ed* remains elusive.



**W**ith this issue of *ACLU Magazine*, we're turning the page. For four years, we've weathered an assault on our rights by an administration that has sowed division and injustice. Last fall, the people said, *enough*. Our country's electoral system sustained record voter turnout and an avalanche of mail-in ballots—and democracy prevailed.

The struggle to ensure that every vote was counted was hard fought: Before Election Day, the ACLU won more than two dozen lawsuits in 20 states to safeguard the rights of millions of voters. In the uncertain, anxious days following the election, when the Trump campaign sued to overturn the will of voters in battleground states such as Pennsylvania, the ACLU responded in turn on behalf of the NAACP and the League of

Women Voters, successfully challenging the president's brazen attempt to disenfranchise Black voters.

Our response was years in the making. In Georgia, 1 million more votes were cast in 2020 over 2018, in part as a result of the ACLU and our partners' efforts to combat voter suppression and expand absentee voting, including a lawsuit that challenged the state's poll tax on mailed ballots. In Michigan, an ACLU-backed ballot initiative in 2018 and our voter mobilization efforts in communities of color set the stage for a surge in voting in 2020.

**"We must persevere until the dream of America is a lived reality for all."**



Nationwide turnout also enabled positive momentum for criminal justice reform, including huge wins for pro-reform prosecutors in Los Angeles, Chicago, Orlando, and the Detroit suburbs, signaling real change to address some of the worst racial disparities in tough-on-crime strongholds.

As you'll read in this issue, achieving lasting racial and economic justice requires facing an ugly history: one where people of color have been systematically disenfranchised and denied their right to thrive. In "Drawing the Line" (p. 10), the ACLU's analytics team uses sophisticated software to thwart racial gerrymandering and voter suppression when states create new district maps this year. "Housing Insecure" (p. 16) describes an exploding national eviction crisis—laid bare by the pandemic and disproportionately impacting Black women—and a federal ACLU lawsuit on behalf of tenants in Kansas City, Missouri. And in "The Road to Reform" (p. 24), the ACLU confronts the racist history of the War on Drugs to clear a new path for marijuana reform with equity at its center.

Time and again during these difficult years, the ACLU community inspired me with its resilience as we fought racism and xenophobia at every turn. And now we must persist. We must confront a raging pandemic, a shifting political and judicial landscape, and a long-overdue racial reckoning. We must uphold the promise of the Constitution for everyone. We must persevere until the dream of America is a lived reality for all.

**Anthony D. Romero**  
Executive Director

PHOTOGRAPH BY CHRISTOPHER GRIFFITH/SUPERVISION

# ACLU

125 Broad Street, 18th Floor  
New York, NY 10004  
212-549-2500  
aclu.org/contact-us

Editorial Director  
**Marie-Adele Moniot**  
Managing Director  
**Genie Cortez**  
Associate Editor  
**Tom Vellner**

Editorial Adviser  
**William Eisenman**

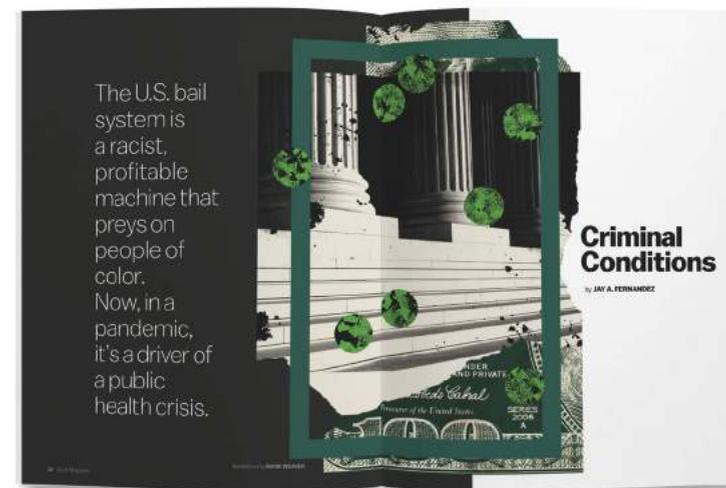
Creative Direction and Design  
**Pentagram**

Production and Printing  
**MSP-C, a division of MSP Communications**

**ACLU Magazine (ISSN 2640-3560)** is a publication for members and supporters of the American Civil Liberties Union (ACLU). Send changes of address and questions about your ACLU membership to membership@aclu.org; mail them to ACLU, 125 Broad Street, 18th Floor, New York, NY 10004; or call 212-549-2500. Send editorial correspondence specific to the publication to ACLU Magazine, ACLU, 125 Broad Street, 18th Floor, New York, NY 10004, or email to ACLUmagazine@aclu.org. This is not a subscription publication, and we do not accept unsolicited manuscripts or advertisements. ©2021 American Civil Liberties Union Foundation. All rights reserved. Contents may not be reproduced without the express written consent of the ACLU. Requests for reprints should be directed to permissions@aclu.org. Published by ACLU, 125 Broad Street, 18th Floor, New York, NY 10004. Printed in the USA. The ACLU comprises two separate corporate entities, the American Civil Liberties Union and the ACLU Foundation. Although both the American Civil Liberties Union and the ACLU Foundation are part of the same overall organization, it is necessary that the ACLU has two separate organizations in order to do a broad range of work in protecting civil liberties. This magazine collectively refers to the two organizations under the name "ACLU."

**Exchanging Mailing Lists:** The ACLU defrays the cost of our new-member recruitment by renting or exchanging our list with other nonprofit organizations and publications, but never to partisan political groups or to groups whose programs are incompatible with ACLU policies. All lists are rented or exchanged according to strict privacy standards. We never give our list directly to any organization; instead, we send the list to a letter shop that prepares the mailing for the organization that is participating in the rental or exchange. That organization never sees our list and never knows what names are on it unless an individual responds to the organization's mailing. The ACLU always honors a member's request not to make his or her name available. If you do not wish to receive materials from other organizations, write to the ACLU Membership Department, and we will omit your name from list rental and exchange. Thank you for your understanding.

**Connect with us.**  
Instagram: @aclu\_nationwide  
Twitter: @ACLU  
Facebook: facebook.com/aclu



**The Summer 2020 issue of ACLU Magazine includes a story on the exploitative cash bail system.**

**Re: "Why Voting by Mail Is Essential"**

Thank you for all the coverage on voting by mail. I live in Virginia, but until about six months ago, I lived in Oregon where we have always voted by mail—and it works!

*Ron Coleman  
Culpeper, VA*

**Re: "How We Protest"**

Reading the [Summer 2020] articles reminded me of how proud I am of this country that it has such great institutions like the ACLU. The ACLU is forged in battle with barely restrained forces of oppression and exploitation. But it is also a uniquely American institution born from the optimism of the founders and their wise emphasis on the activism that will be needed to keep it.

One article that particularly impressed me was by DeRay Mckesson. He has a powerful message of inclusion: We are all in this together, even ones like

me who cannot throw myself on the front lines. But I can donate, I can speak truth to power, and I can pay attention to the new generation of leaders.

*Alan King  
Yorktown Heights, NY*

**Re: "Transgender Youth Speak Out"**

Thanks to Katelyn Burns for the Summer 2020 article describing the challenges transgender young people face in conservative states. I am a pediatrician in a state that strives to be accepting. While it is true that trans youth are more likely to suffer from depression and anxiety, one wonders how much of their mental health stems from day-to-day stresses. Living in hostile surroundings might not only make one feel unwelcome, but also damage one's well-being. We can all work toward a more accepting world.

*Ilana L. Schmitt, MD, MPH  
Amherst, MA*

**We love your feedback!** Let us know what you think about this issue: [ACLUmagazine@aclu.org](mailto:ACLUmagazine@aclu.org)

A note from the chair of the ACLU National Board's 2021 Nominating Committee: Please be advised that ACLU members may submit nominations to the National Board for consideration by the Nominating Committee for the 2021 slate. Please send your recommendation to: ACLU Nominating Committee, 125 Broad Street, 18th Floor, New York, NY 10004. ACLU members may also make nominations to the National Board by submitting a petition with the names and signatures of 50 ACLU members to the address above.



# FRONT LINE

## PRIORITIES

### Advancing Racial Justice

The ACLU calls on the new administration to confront our country's racist legacy.

**The early days of 2021** and a new administration mark a watershed moment—a historic opportunity to address racial injustice in America. At the heart of transformative change are reparations to descendants of the enslaved Africans upon whose backs our country's incredible wealth was built. While no restitution could ever fully compensate for centuries of institutional violence and oppression, reconciliation can be achieved with an honest assessment of how slavery affected economic opportunity, voting rights, and the criminal legal system. The country craves this reckoning, and the time to act is now.

**The Biden-Harris administration has a unique opportunity to prioritize racial justice in its first 100 days.**

CONTINUED FROM PAGE 5

This tough but necessary national conversation is just part of the path toward restorative justice. The ACLU calls for the Biden-Harris administration to set in motion a comprehensive plan to eradicate the vestiges of colonization, slavery, and Jim Crow, and prioritize political and economic equality.

To achieve true systemic equality, the ACLU asks that the new administration pursue an ambitious agenda that prioritizes racial justice: passing H.R. 40, which would establish a commission to study the impact of slavery and develop proposals for reparations to Black Americans; protecting and advancing voting rights; strengthening fair housing policies; forgiving student loans; and expanding access to broadband to ensure marginalized communities have access to employment and education opportunities.

The ACLU and its affiliates will bring all legal and legislative resources to bear on core issues that disproportionately impact racial minorities, from voter re-enfranchisement efforts in Georgia to the ACLU of Louisiana’s Justice Lab, a litigation effort to combat discriminatory police practices. Police divestment and criminal legal reform at the federal, state, and municipal levels are essential to any substantive redress of institutionalized racism.

“Equality has been a dream turned mirage pursued by many generations of Black Americans,” says ACLU of Georgia Executive Director Andrea Young, whose affiliate has partnered with groups such as the Urban League of Metro Atlanta, Sister-Song, and Black Voters Matter. “Given centuries of relentless exploitation, investments must be made in Black families and communities to remedy the racial wealth gap.”

Advancing democracy requires an honest accounting of racism’s devastation and a full-bodied effort to rebalance political and economic power. We must bring our institutions and policies in line with our stated national values. We call on the administration to seize this moment. —JAY A. FERNANDEZ

**Call Congress**

Contact your legislators today and urge them to support H.R. 40 and reparations for slavery.

To be connected to your reps, visit [aclu.org/reparations](https://www.aclu.org/reparations).

CASE STUDY

# Militarizing the Police

As people took to the streets last year to protest police brutality, many were met with forces armed with riot gear, tear gas, and rubber bullets. That the police in our communities often look indistinguishable from the military is no accident. Since 1997, the U.S. Department of Defense’s 1033 program has distributed more than \$7.4 billion worth of military weapons to over 8,000 law enforcement agencies.

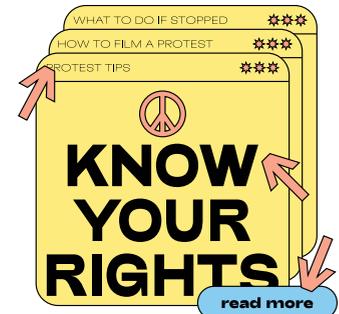
Local police in the state of Arizona have a staggering cache of weaponry (pictured) secured through the 1033 program, which has long been used to militarize the southern border. Ostensibly obtained for security, the equipment is often diverted to aggressive community enforcement, frequently terrorizing people of color. —CLIO CHANG

Join the ACLU in demanding a moratorium on the 1033 program at [aclu.org/1033](https://www.aclu.org/1033).



ILLUSTRATION BY MGMT. DESIGN

QUANTITIES SOURCED FROM THE 2014 ACLU REPORT WAR COMES HOME.



## No Justice, No Peace

When you’re out on the streets, it’s important to know your legal rights as a protester. Here are some tips:

- You have a right to record, including recording police at work. Video recording from a safe distance is not interfering with legitimate police operations.
- If you’re stopped, the police can’t confiscate photos or videos without a warrant. Keep strong passwords for your devices and disable face or fingerprint recognition.
- If you’re under arrest, you have a right to ask why you are being arrested. Don’t agree to anything without a lawyer present.
- You never have to consent to a search of yourself or your belongings. If you *do* consent, it can affect you later in court.
- You have the right to a local phone call if you’re arrested. Law enforcement is not allowed to listen in if you call a lawyer for legal advice. —c.c.

Visit [aclu.org/protest](https://www.aclu.org/protest) to learn more about your basic right to assemble.

ILLUSTRATION BY BROCCOLI\_BOY

# Empowered Workers

Decriminalizing sex work has won popular and political support. During a pandemic, it's urgent.

For more than 40 years, the ACLU has advocated for the decriminalization of sex work. At stake are the health and safety of some of the most vulnerable people—transgender women, people of color, unhoused people, and immigrants—who are regularly targeted and assaulted by the police.

“Sex workers aren’t always a part of the conversation about police brutality, but they should be,” says LaLa B. Holston-Zannell, ACLU trans justice campaign manager. Decriminalization would end thousands of annual arrests and police violence against sex workers—including when transgender women of color are profiled and harassed or susceptible to sexual extortion. It would also

allow sex workers to seek health care without fear of arrest.

While consensual buying and selling of sexual activity remains illegal in most of the U.S., the tide has turned internationally. New Zealand decriminalized both the buying and selling of sexual activity in 2003, while other countries decriminalized the sale of sex but left the purchase a criminal offense (the so-called Nordic model). More than half of the U.S. supports the New Zealand model, according to a 2020 Data for Progress study co-authored by the ACLU, which empowers workers to turn down undesirable clients and negotiate safer sex practices.

COVID-19 has made decriminalization imperative. Already precarious incomes

have been destabilized by social distancing mandates. Some workers go online to avoid the virus, only to potentially face censorship by digital platforms held liable for user content by SESTA/FOSTA, a 2018 law purported to crack down on online sex trafficking but interferes with sex workers’ ability to screen clients.

Prior to the pandemic, the introduction of legislative reform had expanded at the federal and local levels. In late 2019, Congress introduced the Safe Sex Workers Study Act, a bill to require a national study on the impact of SESTA/FOSTA on the health of sex workers. State and local lawmakers have introduced decriminalization bills in Massachusetts, New York, Vermont, and Maine. The ACLU successfully advocated for a 2020 California law prohibiting the arrest of sex workers when they report violence against themselves and clarifying that condoms cannot be used as probable cause for an arrest.

Sex workers already protect themselves and each other. The movement to decriminalize is demanding the government do the same. —SESSI BLANCHARD

Visit [aclu.org/sexwork](https://aclu.org/sexwork) to read the ACLU report *Is Sex Work Decriminalization the Answer?*



ILLUSTRATION BY LISA LARSON-WALKER

# The Court of Public Opinion

David Cole, national legal director of the ACLU, answers your questions about the judicial landscape in the wake of a changed Supreme Court—and why citizen activists are essential.



**With a conservative majority on the Supreme Court, how can the ACLU continue to protect civil liberties?**

It’s worth keeping in mind that the Supreme Court has had a majority of conservative, Republican-appointed justices since 1971. Yet during that 50-year period, in cases brought by the ACLU and its allies, the court recognized that sex discrimination violates the Constitution, upheld the right to abortion, recognized marriage equality, upheld affirmative action, expanded speech rights, limited the death penalty, and expanded criminal defendants’ trial rights.

We have shown that we can win before a conservative-majority Supreme Court. At the same time, we will be looking increasingly to other forums, including at the state and local levels, where much of the work of civil liberties occurs. The ACLU is well situated to do that work with our affiliates’ presence in every state.

**What’s to stop the court from rolling back landmark rulings such as *Roe v. Wade*?**

Over time, the court has rarely parted dramatically from where the people are on the nation’s fundamental values, so if we can sustain broad support for *Roe*, it will be more difficult for the court

to overturn this nearly 50-year-old precedent. Historically, the court’s rulings tend to reflect changes wrought more broadly in the political and legal culture through the work of civil society groups like the ACLU. But we must remain vigilant about more subtle ways of undermining the right to abortion, as those may be more likely than an outright reversal of *Roe*.

**Does the ACLU support efforts to reform the Supreme Court, including its membership?**

The ACLU has not yet taken a position on expanding the court. Simply increasing the size of the court when one

party is in power risks the same response when the other party takes power and would further politicize the court. Other measures are designed to reduce the politicization of the court, including one that justices serve 18-year terms, staggered so that every president gets two appointments during their term. As noted previously, the court has rarely diverged substantially from public opinion on fundamental constitutional issues, so the ACLU’s job—and yours—is to make sure they hear us loud and clear.

Please send your questions to [ACLUmagazine@aclu.org](mailto:ACLUmagazine@aclu.org).

PHOTOGRAPH BY JARED SOARES

# DRAWING

# THE LINE

This year marks the beginning of a once-a-decade redistricting process. But as technology has become increasingly sophisticated, it's easier than ever for lawmakers to manipulate their maps for partisan gain or minority voter suppression. A team of ACLU analysts is generating its own maps to challenge racial gerrymandering.

BY MICHAEL HARDY

ver since some communities of color secured the constitutional right to vote in 1870, state legislatures, especially in the South, have employed a variety of tools to keep them from exercising that right. Poll taxes. Literacy tests. Whites-only primaries. Grandfather clauses. For almost a century, the 15th Amendment was effectively nullified across the South by a combination of discriminatory voting laws and widespread racial terrorism.

The Voting Rights Act of 1965 (VRA), widely considered the most successful civil rights law in American history, banned the most egregious forms of voter suppression, requiring states with a documented history of racial disenfranchisement to obtain federal approval for any changes to their election laws and procedures, including district maps, in a process known as preclearance. In the wake of the VRA's passage, African American voter registration skyrocketed across the South, and Southern states sent their first Black representatives to Congress since Reconstruction. In 1964, there were just 300 Black elected officials nationwide; today, there are more than 10,000. Bipartisan majorities of Congress reauthorized the VRA in 1970, 1975, 1982, and, most recently, in 2006, when Congress extended the act for 25 years by a vote of 390-33 in the House and 98-0 in the Senate.

The VRA has received widespread bipartisan support in Congress. But recently the Supreme Court is another story. In 2013, the court's 5-4 decision in *Shelby County v. Holder* gutted the law's preclearance requirement. Writing for the majority, Chief Justice John Roberts argued that changes in the South since 1965 had rendered such protections unnecessary. The ACLU intervened in the case on behalf of the Alabama State Conference of the NAACP and several African American residents of Shelby County whose voting rights were impacted by the lawsuit.

What followed the court's decision was entirely predictable. No longer forced to seek federal approval for their voting laws, state legislatures across the South raced to enact stricter voter ID requirements and redraw electoral district maps to dilute minority voting power, also known as racial gerrymandering. Within hours of the Supreme Court decision, Texas Attorney General Greg Abbott announced that a redistricting map that had been tied up for years in preclearance litigation would take immediate effect. North Carolina enacted a massive voting bill that, as a federal appeals court would later find, "target[ed] African Americans with almost surgical precision."

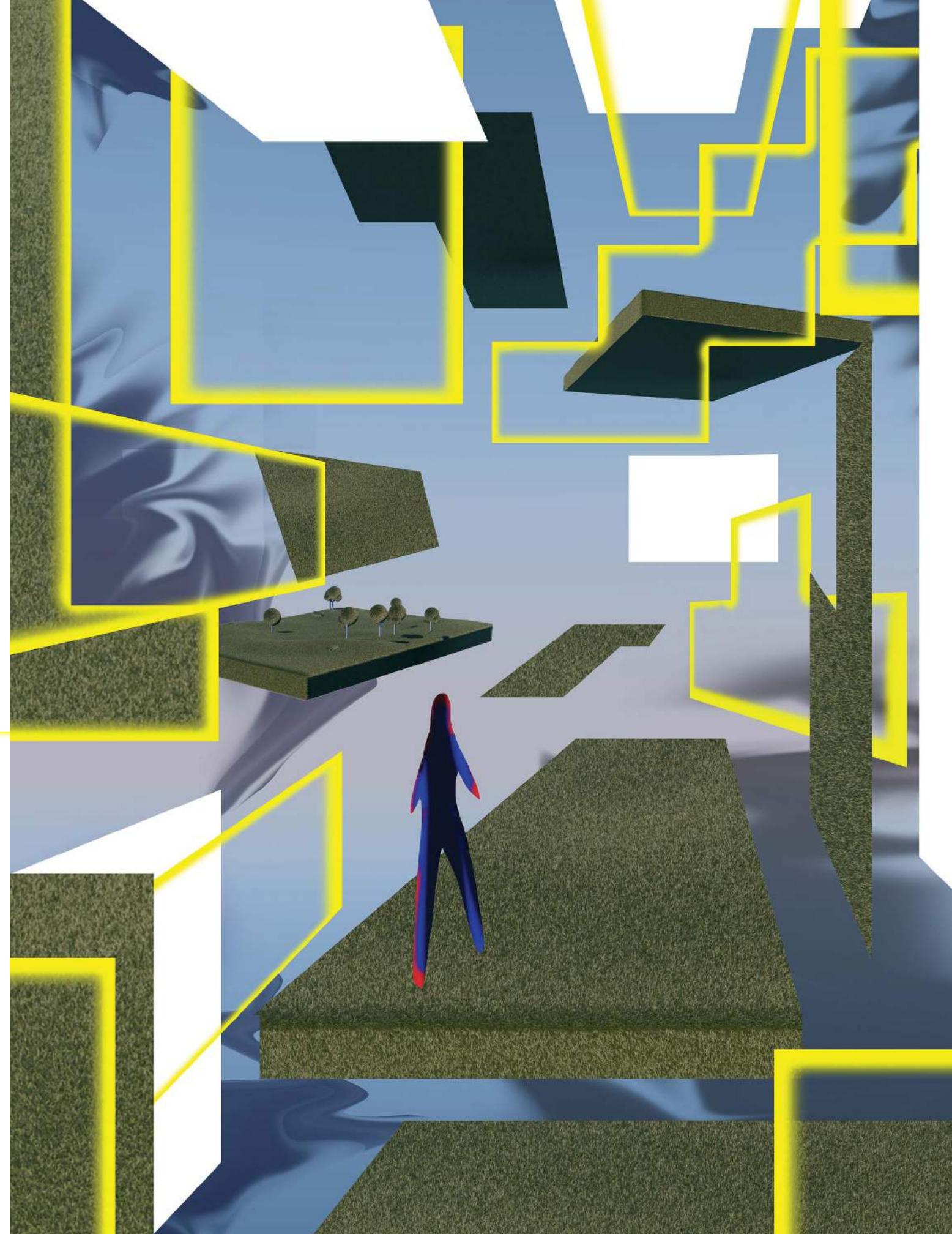
**T**o adapt to a post-*Shelby* world that's given racial gerrymandering room to thrive, the ACLU's Voting Rights Project is getting creative. One of its weapons are new statistical methods for simulating redistricting plans, developed by researchers such as Duke University mathematician Jonathan Mattingly, Harvard University political scientist Kosuke Imai, Tufts University mathematician Moon Duchin, and Ben Fifield, a data scientist from Princeton University who is now part of the ACLU's analytics team.

Using fine-grained census data on the political and demographic geography in each state, ACLU analysts run a computer program that generates thousands of potential legislative district maps, each of which conforms to state and federal laws governing how districts must be drawn. For instance, each district must contain roughly the same number of people, and each district must be geographically contiguous.

The analysts then evaluate each potential map according to a number of variables, including the racial makeup of the representatives likely to be elected if the map were implemented. If most of the maps generated by the computer program have three districts that are over 50 percent African American, but the map adopted by the state legislature contains only one district that is over 50 percent African American, that suggests the map drawn impermissibly dilutes the Black vote.

"There are more possible maps than there are atoms in the universe, so we can't get to the full set," says ACLU Chief Analytics Officer Lucia Tian. "A lot of the new technologies are about how to generate a representative sample of the full set. Once you have that

**"You can look at any particular implemented map and ask whether it fairly represents all communities."**



sample, you can look at any particular implemented map and ask whether it fairly represents all communities, especially communities of color.”

To get a head start on the post-census redistricting process, a team of four ACLU analysts led by Tian has already been generating potential maps for the states most likely to engage in illegal racial gerrymanders. “We’ve calculated early statistics on racial representation in those states and then created alternative maps that would correct some of those racial disparities,” she says. The ACLU plans to focus its efforts on state legislative districts previously covered by preclearance and is one of the only national, nonpartisan groups focused on combating racial gerrymandering.

But litigation is just one element of the ACLU’s redistricting strategy, which will rely heavily on data analytics and computer-generated maps from Tian’s team. “We are focused on ensuring we have fair maps, and we’re going to use every tool we have at our disposal,” says Sophia Lin Lakin, deputy director of the ACLU’s Voting Rights Project. ACLU affiliates across the country are already preparing to conduct advocacy work during the 2021 legislative session.

In Texas, senior policy strategist Matthew Simpson says his top priority is making sure that communities of color are kept intact rather than being split up among multiple districts. When the 2021 Texas legislative session begins in January, the ACLU and its allies in Austin plan to hold hearings where members of these communities can tell their stories. “We need to establish that there are cultural, racial, ethnic communities that need to be respected,” Simpson argues.

**M**inority voter suppression and racial gerrymandering are still illegal—*Shelby County v. Holder* left intact Section 2 of the Voting Rights Act, which says that states cannot “deny or abridge the right of any citizen of the United States to vote on account of race or color.” But because states no longer have to obtain preclearance for changes to their voting laws, voters take on an extra burden when challenging discriminatory laws in court. Those lawsuits often take years, spanning multiple election cycles, to work their way through the courts.

**“Our job is to ensure the people are electing their representatives—not the other way around.”**

Consider recent events in Sumter County, Georgia, a rural county 140 miles south of Atlanta. In 2010, the local school board saw a Black majority for the first time in county history, reflecting the demographic transformation of the community. But before the new members could take office, the outgoing board voted to redraw the district map, add two new districts, and move the elections from November to May, when turnout would likely be lower. As a result of the VRA’s preclearance requirement, the changes didn’t take effect until 2014, when, in the wake of *Shelby County v. Holder*, the Georgia legislature finally implemented the plan.

The map worked just as its creators had intended. In the 2014 school board election, the member majority was once again non-Black. All of a sudden,

a school district that was 70 percent Black, in a county that was 54 percent Black, was governed by a board that was 70 percent white. The ACLU sued the county on behalf of Reverend Mathis Wright Jr., the president of the local chapter of the NAACP, arguing that the new map violated Section 2 of the VRA. When a district court ruled against the county in 2019, the county appealed to the 11th Circuit Court of Appeals, which affirmed the lower court’s ruling in 2020, stating that the maps “impermissibly diluted Black voting strength.”

But in the six years that it took the courts to determine that the new maps violated the VRA, there have been multiple school board elections. “The problem with after-the-fact lawsuits is that they are very time-consuming and can be prolonged by appeals,” says Sean Young, legal director of the ACLU of Georgia. “So several discriminatory elections can take place, as they did here, while the lawsuit is pending. And not everyone has tens of thousands of dollars, especially in these rural areas, to challenge discriminatory districts.”

For every successful challenge to a discriminatory voting law, dozens of other laws go unchallenged because of lack of resources, Young says. “Georgia has thousands of municipalities and over 150 counties. It’s a game of whack-a-mole.”

# Demanding Fair Maps

Although racial gerrymandering remains unconstitutional, redistricting driven by partisan bias is not illegal under the U.S. Constitution. Following the last census, in 2010, GOP-led legislatures in Pennsylvania, North Carolina, Michigan, Ohio, and Wisconsin adopted electoral districts that ensured Republicans would win a disproportionate number of congressional seats. Likewise, Democrat-led legislatures in states such as Maryland and Illinois created maps that favored the election of more Democrats.

In 2019, the Supreme Court heard a series of cases against both Republican and Democratic gerrymanders.

The ACLU filed an amicus brief in *Rucho v. Common Cause*, arguing that gerrymandering subverts the democratic process. But a 5-4 majority ruled that while partisan gerrymandering may be “incompatible with democratic principles,” federal courts didn’t have the authority to overrule state-drawn maps.

Partisan gerrymandering lawsuits cannot be heard by federal courts, but voters can still influence how their districts are drawn. “The answer to partisan gerrymandering is to create districts that reflect and respond to voters’ choices,” says Theresa Lee, ACLU staff attorney. “There are clear, neutral ways to do that.”

Advocating for fair maps through citizen action is one way to make your voice heard and your vote count. Join the ACLU’s grassroots army at [peoplepower.org](https://peoplepower.org) to demand a transparent redistricting process.

**G**iven America’s long history of gerrymandering, and the cost of defending those gerrymanders in court, it’s no surprise that a growing number of states are handing over responsibility for redistricting to independent commissions—the method used by most of the world’s democratic countries. The ACLU is broadly supportive of such efforts to remove partisanship from the process. “The more this can be done by independent agencies, the better,” Tian says. The maps drawn by these agencies can be evaluated using the same algorithms the ACLU is using to examine legislature-drawn districts. Both the process and the results must be fair and transparent.

Seventeen states have already stripped their own legislatures of redistricting authority. One of the latest is Colorado, where, in 2018, voters approved a pair of constitutional amendments creating a 12-person commission consisting of four Republicans, four Democrats, and four independents selected from a pool of applicants. Eight votes, including at least two of the four independents, will be

required to approve a map, after which the state Supreme Court will provide a legal review.

Other states have adopted different methods—in Michigan, for instance, the 13-member panel of government officials charged with conducting the next redistricting was chosen by lottery in August, a system established by a 2018 ballot initiative.

Before states can start redistricting, of course, they need the 2020 census numbers. The decennial census is the basis for all redistricting efforts across the country. Required by the Constitution and carried out every 10 years since 1790, this “actual Enumeration” of the population determines how many congressional seats (and thus many presidential electors) are awarded to each state, as well as how congressional districts are drawn within those states.

Last year’s count faced extraordinary challenges thanks to Trump’s politicization of the census and the COVID-19 pandemic, which slowed the work of census workers. Despite the Census Bureau’s request for more time to finish its work, Trump refused to extend the deadline for completing the count.

“The fact that the census count ended earlier than anyone is comfortable with raises concerns,” Lakin says. “What happens if we can’t trust the count? There are a lot of questions about the data.”

The census data will likely be made available to state legislatures this spring, and lawmakers will spend the 2021 legislative sessions drawing new electoral maps. Many of these redistricting schemes will be challenged in court, resulting in years of litigation. But all the advocacy and legal battles are worth it to ensure America has fair elections. “The people in power always try to rejigger the lines to make sure they have the voters they want in their districts,” Lakin says. “Our job is to ensure the people are electing their representatives—not the other way around.” ■

Members of KC Tenants, including Diane Charity (second from right), distribute tenants' rights materials in Kansas City.



# HOUSING INSECURE

Decades of discrimination set the stage for a catastrophic eviction crisis in the wake of the pandemic. ACLU client-activists in Kansas City, Missouri, are taking matters into their own hands to secure safe and fair housing for Black residents.

**DIANE CHARITY WAS 12 YEARS OLD** when her mother and stepfather moved from Omaha, Nebraska, to Kansas City, Missouri, in 1962. The first thing her mother did was buy a house. “For \$11,000, it was the biggest, prettiest house on the block,” says Charity. “Even back then, \$11,000 seemed like a lot of money.”

The house they owned was in the Wendell Phillips neighborhood, making Charity’s family some of the first Black residents in the area. Local zoning ordinances that once prevented Black people from living south of East 27th Street had been lifted as desegregation efforts began. Charity’s family home sat less than a block south of the East 27th Street line.

Eager to leave overcrowded and mismanaged social housing projects, Black residents flocked to new neighborhoods in the wake of desegregation in the 1950s and 1960s. But Black families also became prey to toxic lending practices by banks, or were unable to receive mortgages at all, and encountered discriminatory housing policies by landlords. In the decades since, these practices and policies have indelibly altered the social fabric of Kansas City and other cities across the country. The Fair Housing Act of 1968 (FHA) eliminated many overt forms of discrimination, but exclusionary practices and implicit bias persist. In October, the ACLU filed a federal lawsuit against the U.S. Department of Housing and Urban Development (HUD) to chal-

lenge its rollback of critical protections under the FHA that have helped combat housing discrimination.

It’s this history that has set the stage for a present-day eviction crisis, one that has dramatically worsened under COVID-19 and disproportionately impacts Kansas City’s Black residents—and, more specifically, its Black female tenants.

“Those effects are still very much present today and are really inseparable from the crisis that we’re seeing,” says Linda Morris, staff attorney at the National Center for Law and Economic Justice and a former fellow with the ACLU’s Women’s Rights Project. “Even today, Black women particularly face economic disparities and housing disparities due to not just the history of segregation and housing inequality in our country, but also huge wealth gaps.”

This crisis is now at the center of a federal lawsuit by the ACLU challenging the Kansas City Court in Jackson County, Missouri, for violating the Centers for Disease Control and Prevention’s (CDC) nationwide moratorium on evictions due to COVID-19. The lawsuit was filed on behalf of KC Tenants, a local organization co-founded by Charity that seeks to advance fair housing access to renters.

“Our plaintiff is a grassroots group that is comprised of poor and working-class tenants in Kansas City,” says Morris. “The organization and its members have a real stake in the outcome of this litigation.”

The CDC moratorium was flawed from the outset, says Sandra Park, a senior staff attorney with the ACLU’s Women’s Rights Project. It required tenants to seek out its protections, but did not mandate that tenants be given notice of their rights. And it didn’t address the long-term problem. “After the moratorium ends, eviction cases will move forward in unprecedented numbers, as people face back rent of hundreds or thousands of dollars,” says Park, “which most tenants are not going to be able to pay. At the ACLU, we view the eviction moratorium as a civil rights issue because the pandemic disproportionately affects communities of color.”

In Jackson County, tenants who have been unable to make rent have been forced to appear in court to contest eviction filings—potentially exposing them to the virus and contributing to its spread—or have been evicted via teleconference.

“Tenants are being evicted by conference call, a gross violation of tenants’ rights to due process,” says Tara Raghuvver, an evictions researcher and co-founder and director of KC Tenants. Raghuvver and Charity have been organizing and mobilizing tenants against unfair evictions, and raising awareness about the harsh and distinct reality that Black women are most affected by eviction.

“The average person who gets evicted is a 49-year-old Black woman,” says Charity. With data from the Eviction Lab, the ACLU’s Women’s Rights Project found that Black women renters had evictions filed against them by landlords at double (or higher) the rate of white renters in 17 of 36 states. When Park first joined the ACLU in 2007, she worked primarily on behalf of survivors of gender-based violence, including domestic violence and sexual assault, challenging lease provisions that punished and evicted survivors. Her work also represented tenants, including low-income and Black women, who experienced sexual harassment from landlords.



“I began to work on eviction as a gender and racial justice issue,” says Park. “It’s often overlooked. I think in part because the women who are affected are low-income women, they are women of color, and it’s a deeply intersectional issue.”

In 2017, Park, the ACLU of Washington, and the Northwest Justice Project filed the first federal lawsuit challenging the common practice of denying housing based on prior eviction filings. The case was filed on behalf of tenant Nikita Smith, a resident of King County, Washington, where Black women are five

times as likely to have an eviction case filed against them as white men.

While racial bias and modern-day sexism can be blamed for some of this disparity, undoing it requires confronting not just the history of individual communities such as King and Jackson Counties, but the history of America itself.

**UNLIKE HER MOTHER**, Diane Charity has never owned a home. She is now 70. Over the course of several decades’ living in Kansas City, she’s experienced multiple evictions due to some of the city’s most

**Troost Avenue has long served as a dividing line between Kansas City’s white and Black residents, symbolizing decades of housing discrimination and wealth disparities.**

discriminatory housing practices. In 1976, she moved into Parade Park Homes, one of the country’s oldest Black-run cooperatives, and stayed there until 2006.

“I went yesterday and put in my application to move back,” she says. “I’m going to try it again and see what I can do.”

Parade Park has been sitting in Kansas City’s historic Jazz District for more than

**“WE VIEW THE EVICTION MORATORIUM AS A CIVIL RIGHTS ISSUE.”**



60 years. It's located near the corner of 18th and Vine, just a few blocks east of Troost Avenue, a street that history has turned into a dividing line between the city's white and Black residents. West of Troost is predominantly white. East of Troost is predominantly Black. Which side of the line you live on can mean a significant difference in wealth and cost of living.

Charity has been around long enough to see these stark bifurcations crystallize within her lifetime. When she moved to Kansas City as a young girl, desegregation was still a nascent political project, and local activist groups were working hard to end discriminatory lending practices. Black people, once prohibited from living south of East 27th Street because of local ordinances, were eager to move away from their impacted neighborhoods—and banks took advantage by imposing high interests on their mort-

gages. In recent years, as the area caught the eye of developers, plans for it would usher in an era of gentrification. There have been times where even the relationship between the Parade Park board and its tenants has become hostile, affected by the whims of the real estate market, according to Charity. It's part of the reason she moved out in 2006. At one point, they even tried to evict her.

"They accused me of having a dog. Then the manager comes to my door with a fake eviction notice," she recalls. "I said, 'Well, I'll tell you what I'll do, sir. I'll get on this board, and I'll show you a thing or two.'" She served on the board for five years and learned how co-ops—and, more broadly, nonprofits—are run. That experience has informed much of her work with KC Tenants.

She wasn't the only one to have grievances with the board. In 2016, the resi-

**Sheila Thomas stands outside her mother's home in Kansas City. Thomas is facing eviction and is determined to fight for fair housing.**

dents of the 510-unit complex pursued a lawsuit against their co-op board over a proposed \$76 million redevelopment project that would have potentially doubled the tenants' "carrying charges," which is what they pay instead of rent. Although that conflict was settled in court, redevelopment plans for the surrounding area are moving forward, at an estimated value of more than \$100 million, some of which would ostensibly go toward new and improved housing. Real estate developers are incentivized with tax credits to make some of that housing affordable, but this system is a deeply flawed one. "The developer was able to build some cheap housing [and] still charged too

much rent," says Charity. "Then people leave because they can't afford [it]."

This is part of the historical process that drives evictions. Developers come in, raise rent, drive up the cost of living in any given area, and eventually kick out old tenants using a number of different tactics. Black women comprise an overwhelming percentage of people evicted by those processes. The wage gap is one reason. But there are other reasons too: The legacy of the War on Drugs and over-policing—driven by a biased criminal legal system—mean Black families are often separated by incarceration, leading to economic devastation and increased insecurity for Black women as primary breadwinners. Cities also use anti-crime laws to push out Black residents from their homes. "Nuisance ordinances disproportionately affect Black women and domestic violence victims," says Park.

Black women are particularly vulnerable to being evicted during the pandemic. They occupy some of the professions most significantly impacted by the pandemic, such as service and hospital jobs. And while some landlords may be willing to negotiate with tenants about rental payment plans, their "internalized bias," says Raghuvier, may prevent them from negotiating fairly with Black and female tenants. "They're going to make a deal for a white family. They might make a deal for a white man. They're less likely to make a deal for a Black mom; a Black, single mom," says Raghuvier, the director of KC Tenants.

Charity and Raghuvier have been staging protests and organizing tenants to help stem the tide of evictions and protect all tenants from unfair evictions in areas such as the Jazz District. "We've dropped literature at over 9,500 doors in Kansas City, all the major apartment complexes where evictions are happening—the bus lines,

**Roger Weaver has lived at Kansas City's Parade Park Homes, one of the oldest Black-run cooperatives in the country, for 25 years.**

**BLACK WOMEN ARE PARTICULARLY VULNERABLE TO BEING EVICTED DURING THE PANDEMIC.**





## 30 MILLION TO 40 MILLION PEOPLE IN THE U.S. ALONE ARE AT RISK OF EVICTION.

grocery stores, laundromats,” says Raghuveer. Now they have a team of 25 people who meet every Saturday to distribute hundreds of pieces of literature informing tenants of their rights. They have a hotline for tenants to call for questions about the eviction process and how to fight it.

Despite the CDC’s national moratorium, which went into effect at the beginning of September, eviction filings continue to rise in Missouri, which has some of the weakest protections for tenants in the country. As of November 14, the Jackson County Court, whose presiding judge failed to extend the local moratorium in May, has allowed more than 2,378 evictions to be filed since then.

“The assumption is that once a tenant has declared that they are eligible for the protection, they should be granted that protection until the end of the year,” says Park. “But what the Kansas City Court has done is create a new procedure that allows landlords to bring their tenants to court to challenge their declarations about whether they’re qualified for the moratorium.” Studies show that a right to counsel can significantly increase a tenant’s

chance at successfully fighting an eviction filing, but many of them are denied a right to counsel in such cases.

“Since we have filed, the state court judges have used every procedural tactic they can to delay a ruling and make it harder, if not impossible, for tenants to take advantage of the narrow, time-limited relief the CDC tried to give them,” says Tony Rothert, legal director of the ACLU of Missouri.

Park anticipates mass evictions during and in the wake of the COVID-19 crisis. There is no way to overemphasize how catastrophic this will be to American communities. A study conducted by the Aspen Institute found that 30 million to 40 million people in the U.S. *alone* are at risk of eviction. The ripple effect of human displacement at that scale is unfathomable; it’s a crisis that will permanently alter the social fabric of our local communities and the nation at large.

“There will be a huge increase in street homelessness, a huge increase in people living with other family members and really doubling, tripling, and quadrupling up,” says Park. “The most common person who is homeless is a child. [We have to think] about all the children whose lives will be completely upended and what that does generationally for our communities.”

**KC Tenants Director Tara Raghuveer, in front of the Jackson County Courthouse, is demanding a future free of housing discrimination and inequities.**

There has been no real effort to provide rent relief to tenants or landlords, even though the scale of this crisis has been known since the early days of the pandemic. The CARES Act, passed by Congress in March, included a short-term ban on evictions for federally financed properties and did not cover most tenants. Since then, “people’s financial situations have gotten much more dire,” says Park. “There were many states that had moratoria in place early on. Most of them have expired.”

The ACLU lawsuit on behalf of KC Tenants is an attempt to reduce the impact of this crisis on one Missouri city. The purpose of the moratorium is to allow people to live in their homes, free from the fear of being physically evicted, and to prevent the spread of COVID-19. Moving forward, the ACLU supports new moratoria on all eviction cases during the pandemic, long-term rent relief for tenants and their landlords when those moratoria are lifted, and the right to counsel for tenants in eviction cases.

To address decades of discriminatory housing policies that have been laid bare by the pandemic, a reinstatement of the Affirmatively Furthering Fair Housing rule, first implemented in 2015, would require cities and towns to address segregation and develop plans for affordable, accessible housing. An invalidation of the Trump administration’s gutting of the Disparate Impact Rule, at the center of the ACLU’s federal lawsuit against HUD, would also restore critical housing protections. This, along with legislation to prevent landlords from using past eviction filings in their tenant evaluations, says Park, will protect tenants in the long term and begin to correct systemic inequities in U.S. housing.

KC Tenants is demanding a future where there is a home guaranteed for every family. “Right now, we treat housing like it’s a bag of pens or a carton of milk that you go to the store and buy,” says Raghuveer. “We’re prioritizing private profits over people’s lives. And in order to shift that, we have to guarantee housing as a public good.” ■

**Despite efforts  
to decriminalize marijuana,  
arrest rates and  
racial disparities  
are still rampant.**

# THE ROAD

# TO

# REFORM

**The ACLU confronts  
the racist War on Drugs  
to chart a new path  
for marijuana reform  
and true justice.**



**BY JAY A. FERNANDEZ**



**ILLUSTRATIONS BY CELYN BRAZIER**

For advocates of marijuana legalization, news in recent years has been very good. Public support has risen to 67 percent. Thirty-six states have now sanctioned the medicinal use of cannabis, and since 2012, 15 states and Washington, D.C., have legalized its recreational use. Legal markets are springing up around the country, early-adopting states are benefiting from the flow of new tax revenue, and dispensaries in many jurisdictions have been labeled essential businesses during the COVID-19 lockdown. Marijuana has gone legit, and momentum is accelerating.

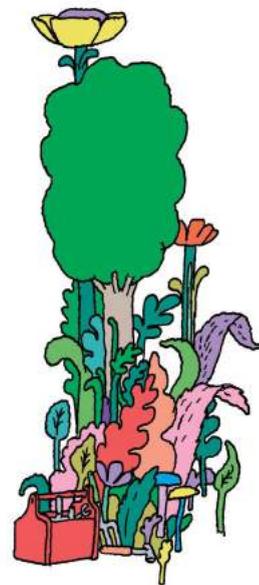
But the history of marijuana prohibition in America is ugly and complex. Legalization alone neither confronts the racist origins of drug criminalization nor addresses the harm suffered by targeted populations. For lasting change, the marijuana reform movement must center racial justice to make restitution to the Black and Brown communities devastated by the decades-long War on Drugs and its insidious effects: mass incarceration, poverty, police harassment, and long-standing barriers to employment, housing, and financial assistance for anyone with a marijuana-related conviction on their record. The steps toward racial equity—expungement of criminal records, dedicated community reinvestment, guaranteed access to legal cannabis markets, removal of collateral consequences, changes in prosecutorial policy, and police divestment—are clear, achievable, and morally just. But there is much work to be done, and the ACLU continues to fight at the federal, state, and local levels to bring about systemic equality in marijuana reform.

The truth is that despite the genuine headway being made, legalization and decriminalization have done little to decrease marijuana arrests or the racial disparities of enforcement. A recent ACLU report, *A Tale of Two Countries: Racially*

*Targeted Arrests in the Era of Marijuana Reform*, shows that though there has been a downward trend nationally between 2010 and 2018, law enforcement still made a staggering 6 million marijuana arrests during that period—and the annual number has actually ticked upward again in recent years. In 2018, law enforcement made nearly 700,000 marijuana-related arrests—90 percent for possession only—and they still account for 43 percent of all drug arrests. According to the FBI, police made more arrests for marijuana in 2018 than for all violent crimes combined.

At the same time, the report highlights alarmingly persistent trends in racist enforcement of marijuana laws. Nationally, Black people are, on average, 3.64 times more likely to be arrested for possession than white people, despite similar usage rates, and these disparities exist in every single state regardless of legalization. In 31 states, including a handful where cannabis is now legal, disparities were actually *larger* in 2018 than in 2010—Black people were as much as nine times more likely to be arrested in some states, while the disparity in some counties is triple that.

Ending the drug war is not tangential to achieving racial justice; it is one of the most effective paths to restoring civil rights and liberties, which is why the ACLU has consistently prioritized marijuana reform. But to fully under-



stand why this injustice persists and how to repair the damage, it's necessary to acknowledge the racist structures that were built into drug criminalization from the very beginning.

By intention, the government has long used drug prohibition to demonize and demoralize certain groups with racism and xenophobia. In 1971, President Nixon made marijuana prohibition a centerpiece of his War on Drugs, though his initial focus was more on prevention and rehabilitation than enforcement and punishment. Still, decades later former Nixon adviser John Ehrlichman infamously admitted that the administration's anti-drug motivations were indeed about vilifying and persecuting Black people and the anti-war left.

## “THE WAR ON DRUGS HAS BEEN A STORY ABOUT THE GOVERNMENT TURNING ON ITS OWN PEOPLE, TARGETING THE MARGINALIZED.”

The Controlled Substances Act that classified marijuana, alongside heroin, as a Schedule 1 drug with no accepted medical use launched the modern era of aggressive policing ramped up during the Reagan and Bush administrations. All along, enforcement has been baldly selective, with Black and Brown populations suffering more arrests and prosecutions, longer sentences, and for immigrants, higher rates of deportation.

“Drug prohibition as practiced in America has never been about science or crime,” says ACLU Criminal Law Reform Project Director Ezekiel Edwards. “It’s been about associating certain drugs with certain groups. It’s been about fear and greed. And it’s been about scoring political points, scapegoating, and controlling certain communities that are perceived as threats to jobs, to status, and to white supremacy. The War on Drugs has been a story about the government turning on its own people, targeting the marginalized. By design, it has fostered community destruction.”

The drug war has wasted billions of dollars and law enforcement hours. Over-policing in Black communities has fed mass incarceration with deep collateral consequences. Incarceration separates families and often removes breadwinners from low-income households. After serving their sentences, those with criminal records face obstacles to employment, voting, housing, student financial aid, and child custody. Even simply a confiscated driver’s license for a low-level marijuana offense can impede access to education and the ability to look for a job or get to the courthouse.

“Legalization isn’t enough because of all of the other [effects] that remove

the ability to be a self-agent, to be self-determined,” says Cynthia Roseberry, deputy director of policy at the ACLU’s Justice Division. “The trauma is deep within that person, and then it’s broad across children, families, and communities.”

To achieve true, equitable reform, the ACLU and its affiliates are advocating for several key reparatory elements: the expungement of past marijuana convictions, the commitment of tax revenue from cannabis sales to community reinvestment, and guaranteed access to the legal industry for those from communities most impacted by the War on Drugs. States are implementing these ideas.

In 2018, Vermont became the first state to legalize the possession of recreational marijuana through the legislature—Illinois followed suit the following year—and in October 2020 the state legalized the sale of marijuana for recreational purposes under pressure from a coalition that included the ACLU of Vermont. At the same time, Governor Phil Scott signed into law a bill that automates the pardon and expungement of past marijuana convictions from criminal records. As of 2019, in California, individuals can petition to get low-level offenses expunged and high-level offenses downgraded, a reform that may affect as many as 220,000 people. Montana’s 2020 Ballot Issue I-190 included a provision that allows for individuals to apply for resentencing or expungement of certain convictions. In June 2020, the ACLU of Nevada successfully persuaded the state government to pardon more than 15,000 people convicted of misdemeanor possession.

Arizona recently passed Proposition 207, which includes social justice provisions pushed by the ACLU of Arizona: earmarked tax revenue for a Justice Reinvestment Fund, an avenue to petition for expungement of certain convictions, and a Social Equity Ownership Program that issues a dedicated number of licenses to cannabis business owners “from communities disproportionately impacted by the enforcement of previous marijuana laws.”

Cannabis is already big business: Sales totaled about \$15 billion in 2019, and that figure is expected to hit \$30 billion by 2024—Arizona and New Jersey alone are projected to generate at least \$700 million and \$850 million, respectively, in yearly recreational sales by 2024. Tax revenues will scale accordingly and must be earmarked for investments in schools, public health, job training, housing, and services in communities ravaged by the War on Drugs. Since entering the industry can be expensive and federal prohibition prevents banks and other institutions from granting loans, licenses must be affordable so the market doesn’t favor the white and the wealthy. Black and Brown entrepreneurs and those from lower-income neighborhoods need to have equal access to the economic benefits of the legal cannabis industry.

Several states are leading the way with ACLU-supported racial justice-centered reforms. Since 2014, Colorado has generated nearly \$8 billion in cannabis sales, with a portion of the hundreds of millions of dollars in annual taxes going to fund vocational programs, business education, and agricultural training, while also making available low-interest loans and grants for entrepreneurs to repair these

# 700,000

In 2018, law enforcement made nearly 700,000 marijuana-related arrests—90 percent for possession only.

Black people are 3.64 times more likely to be arrested for possession than white people.



communities. With its 2019 Cannabis Regulation and Tax Act, Illinois baked in social equity programs, a \$20 million low-interest loan program to diversify ownership, and a business development fund. San Francisco recently established an equity program to set aside dispensary licenses for people in zip codes that were heavily targeted by drug enforcement. In October 2020, the first Latina dispensary owner to benefit from this opened her doors.

“Earlier models shut people out,” says Edwards. “And what it cost to pay fees or get a license was exorbitant and unattainable for a lot of people. If we legalize without ensuring that communities whose economic health has been most compromised by prohibition reap the fiscal benefits, then we will have missed a critical opportunity to right the wrongs of the

drug war and avoid perpetuating other forms of inequality going forward.”

**S**hifting our country’s approach to cannabis from one of criminal punishment to one of public health is one reason why police divestment is necessary, and it’s inextricably critical to advancing racial justice. Policing low-level marijuana possession packs our jails and reinforces tension in harassed minority neighborhoods. Legal-

izing cannabis would immediately lower the prison population by hundreds of thousands, an outcome made even more urgent by COVID-19, which by late 2020 had infected nearly 150,000 incarcerated people and killed 1,300 more. It would also reduce stop-and-frisk encounters that too often lead to police violence.

“It’s going to be a lot harder for police to use the alleged smell of marijuana as a pretext to search a car or backpack,” says staff attorney Jared Keenan of the ACLU

**“IT’S OUR RESPONSIBILITY  
TO PUSH FOR EQUITY,  
FAIRNESS, AND JUSTICE.”**

of Arizona, which worked for the successful passage of Prop 207. “You’ll have fewer police-civilian interactions, and since any interaction with the police can turn deadly, reducing those is a very good thing.”

In the new administration, as well as at the state, city, and county levels where governors, mayors, and district attorneys have tremendous impact on policy, the ACLU is advocating for the implementation of a wide range of related reforms: divesting from police department budgets and reinvesting in communities that have been marginalized by police policies and practices; noncrim-

inal responses to certain drug offenses; and an end to racial profiling.

Taxpayer dollars spent on police activities that are unproductive and harmful must be reallocated to public health workers better equipped to handle them as well as local infrastructure that lifts up affected neighborhoods. Government agencies that collect data about how police resources are used must be stronger, more transparent, and more accessible to the public.

Decreasing the power of prosecutors and rescinding harsh recidivism statutes would also have a positive impact on those trapped in a biased criminal justice sys-

tem. In Arizona, for instance, prosecutors can charge individuals arrested for first-time marijuana possession with a felony, no matter how small the amount—a felony conviction has severe, long-term impact on a person’s future opportunities. “Removing power from prosecutors is going to go a long way toward fixing some of the problems of our criminal legal system,” says Keenan.

Action taken by Congress would speed the process. New Jersey Senator Cory Booker’s Marijuana Justice Act would decriminalize marijuana at the federal level and incentivize states to change marijuana laws that target minorities and low-income people. A similar initiative, the Marijuana Opportunity Reinvestment and Expungement Act, is an ACLU priority for the new administration.

While we’ve yet to elect a president who fully supports legalization, as progress in the states builds and best practices spread, racial justice-centered marijuana reform is sure to accelerate. Officials and other stakeholders are increasingly accepting that it’s not only a moral imperative to heal these wounds, it’s good public policy, which is why these efforts are gaining bipartisan support.

“The marijuana reform movement is strong,” says Edwards. “There has been fairly broad agreement across America, and to some extent across political parties, about the failure of marijuana criminalization. The more people elected at the state and local level understand the history of this country when it comes to race, policing, and the origins of criminalization, the more effectively we’re going to advance marijuana reform centered in racial equity.”

“The War on Drugs was a war against Black people, so when you stop that war, and marijuana is the chief arrow in the quiver, then you necessarily have an impact on racial justice,” says Roseberry. “The work has to be done. It’s our responsibility to push for equity, fairness, and justice, and for America finally to have this reckoning. It’s time. It’s past time.” ■

## SMART JUSTICE

**On November 3, 2020**, Oregon voters passed the ACLU-backed Measure 110, which decriminalizes personal possession of controlled substances and establishes drug addiction treatment programs to be partially funded by tax revenues from marijuana sales. By reclassifying drug offenses, the trailblazing ballot initiative helps shift drug abuse from a criminal justice issue to a public health issue.

In 1973, Oregon became the first state to decriminalize marijuana; it legalized medical cannabis in 1998 and recreational in 2014. The state now generates more than \$130 million in annual tax revenue from marijuana sales, some of which is earmarked for the new Drug Treatment and Recovery Services Fund that will give grants for addiction recovery centers.

The state’s Criminal Justice Commission estimates that the drug arrests of Black and Indigenous Oregonians would decline by 95 percent, mostly erasing long-standing racial disparities in policing and prosecution. The savings from reduced arrests and incarceration, which could be as much as \$25 million over the next few years, will also be funneled to the new recovery fund.

Marijuana reform is on the march. In the 2020 election, Arizona, Montana, and New Jersey all passed legalization measures, South Dakota voters passed initiatives to legalize both medical and recreational cannabis, and Mississippi approved a medical marijuana initiative. The Oregon measure will encourage other states to adopt similar racial justice-centered drug reform, a major goal of the ACLU in the new administration.

Visit [aclu.org/smartjustice](https://aclu.org/smartjustice) to learn more about advancing criminal justice reform bills in your state.

# VOICES

RUN THE JEWELS

## Partner Power

Last fall, companies like Ben & Jerry's were all hands on deck to get out the vote.

In the face of the COVID-19 crisis and sinister voter suppression tactics, the ACLU filed 38 legal actions in 21 states and Puerto Rico to protect and expand the right to vote during the 2020 elections—and its corporate partners helped fuel the fight. On October 17, Ben & Jerry's and Cartoon Network's Adult Swim teamed up to host a virtual concert with hip-hop duo Run the Jewels, which encouraged viewers to vote and donate to the ACLU. The event was just one in a string of efforts from collaborators including Bumble, Everlane, H&M, Levi's, Madewell, Puma, PwC, Snap, and Univision to promote access to the ballot. —TOM VELLNER

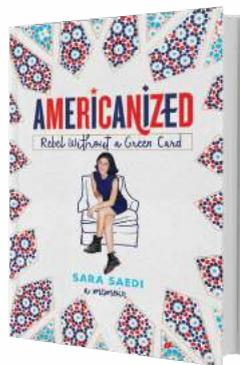
Run the Jewels perform during *Holy Calamavote*, a virtual concert on Cartoon Network's Adult Swim that spurred viewers to vote and support the ACLU.



## Not Your Parents' History Book

**A remix of Ibram X. Kendi's *Stamped from the Beginning* empowers teens to be anti-racist.**

The uprisings of 2020 awakened a new generation to the fight for racial justice. Jason Reynolds and Ibram X. Kendi's *Stamped: Racism, Antiracism, and You* (Little, Brown) is both a clear-eyed assessment of the history of racism in America and a call to action for young adults hoping to bring about fundamental change. In crafting a lively, accessible, teen-targeted "remix" of Kendi's National Book Award-winning *Stamped from the Beginning: The Definitive History of Racist Ideas in America*, Reynolds illustrates how that racist history persists, in ways seen and unseen, in readers' lives. A thoughtful corrective to the dearth of school materials that address racism's ugly legacy, *Stamped* considers everyday manifestations of racism, while highlighting resistance figures such as Angela Davis and William Lloyd Garrison. A historian, author, and professor, Kendi is a leading voice on anti-racism, and Reynolds has long captivated teens with his award-winning novels (*Long Way Down*). Their collaboration empowers young people to develop a vocabulary for understanding racism, identify racist structures in their lives, and contribute to an anti-racist future. —JAY A. FERNANDEZ



## For the Kids

Young readers passionate about racial justice and humane immigration policies will find education, amusement, and encouragement in a number of recent books. Susan Kuklin's *We Are Here to Stay: Voices of Undocumented Young Adults* includes the hopeful stories of nine immigrants trying to make the United States their home. In her funny memoir *Americanized: Rebel Without a Green Card*, Sara Saedi describes trying to survive as an undocumented American teenager after emigrating from Iran. Teens interested in understanding our discriminatory criminal justice system can turn to Bryan Stevenson's young adult adaptation of his bestseller *Just Mercy: A True Story of the Fight for Justice*. And younger kids will enjoy Tony Medina's *Thirteen Ways of Looking at a Black Boy*, which pairs tanka poetry with celebratory illustrations. —J.A.F.

**After a year of loss and racial reckoning, artist Derek Abella considers what healing looks like for a country facing profound grief and opportunity. Abella's work finds comfort in what's next: the pursuit of lasting equality and justice in the wake of ceaseless tests for democracy.**



### Get the ACLU Newsletter

Receive an email every Saturday with a roundup of news from the front lines of the fight for civil liberties.

Sign up for weekly news: [aclu.org/newsletter](https://aclu.org/newsletter)

# Ground Work

Grassroots activist and attorney Diane Burkley Alejandro knows that progress depends on never giving up.

**NAME:** Diane Burkley Alejandro  
**LOCATION:** Fairfax, Virginia  
**FOCUS:** Immigrants' Rights  
**ACTIVIST:** Since 2017

A public interest attorney with more than 20 years' experience in government advocacy, Diane Burkley Alejandro leads the Fairfax, Virginia, group in the ACLU's grassroots organizing network, People Power. Fairfax has the unfortunate distinction of being a national leader in immigrant detention. In four years, Alejandro and People Power have helped pass nine local policies to limit cooperation between Fairfax County law enforcement agencies and U.S. Immigration and Customs Enforcement (ICE) and protect undocumented communities.

**Why did you first volunteer with People Power's immigration efforts?**  
 About 90 percent of deportations start with local law enforcement detaining someone or sharing information. If that work is done at the local level, you can really cut down on the harm. On a moral level, I hated the racist rhetoric and policies. You have a group of folks who aren't in a position to stand up for themselves because if they do, they risk deportation. When People Power started [in 2017], the timing was right for those of us who wanted to do something specific.

**How does being a lawyer impact your activism?**  
 You have to focus on where you can change things. Working with

[Fairfax], having knowledge of laws is helpful. But not just lawyers can do this. It takes a team of advocates, people who have their ears to the ground. We work with members who bring their personal experiences. It takes all of that together to make this work.

**What are you most proud of?**  
 We haven't given up and we're not afraid to push public officials. When there was a public forum with the board of supervisors, I asked, "We've been trying to set up a meeting with you to address our concerns—will you commit to meeting with us?" It's a televised hearing, so what are they going to say? That got our foot in the door, and we just kept pushing and building.

**What are your goals for Fairfax?**  
 In Fairfax County, 78 percent of people who are turned over to ICE by the Fairfax sheriff haven't done anything. They haven't been convicted of anything. We're working to rebuild the trust of the immigrant community and their ability to thrive. We're not going to solve all of the problems. Our goal is to keep as many people out of deportation proceedings as possible. —ELLY BELLE

**Join People Power**  
 Become a grassroots activist and help your community by making calls, attending legislative sessions, and translating materials into Spanish.

Learn more at [peoplepower.org](http://peoplepower.org).



Diane Burkley Alejandro leads ACLU People Power in Fairfax, Virginia.



Renee Bracey Sherman speaks outside the Supreme Court during oral arguments in *June Medical Services v. Russo*, a critical case for reproductive freedom in which the ACLU filed a friend-of-the-court brief.

## Reproductive Justice Is Racial Justice

By Renee Bracey Sherman

Renee Bracey Sherman is the founder and executive director of *We Testify*, an organization dedicated to telling the stories of people who have had abortions. The following is adapted from her 2020 appearance on the ACLU's podcast, *At Liberty*.

**Reproductive justice**, a human rights framework coined almost 30 years ago by a dozen Black women, is the vision for a world where every person has the rights, resources, and respect to decide if, when, and how to grow their families, free from violence and coercion. It was developed to better encapsulate the lives of those of us who didn't see our lived experiences represented in the pro-choice movement.

Much of the leadership of the reproductive rights movement has been white women, while the majority of people who have abortions are people of color. What would it look like to have a movement led by Black and Brown people? What catches headlines are Supreme Court wins or abortion bans, which

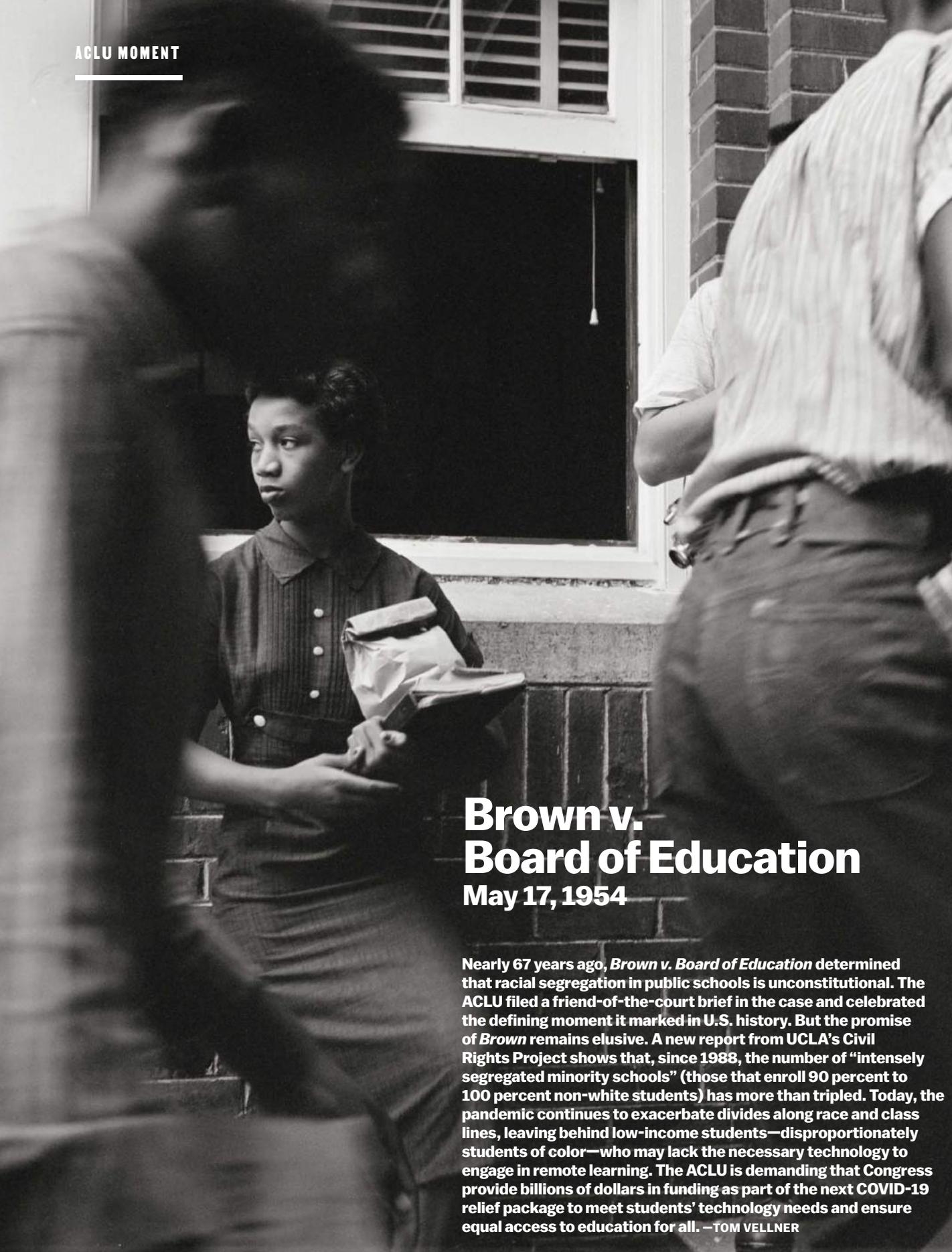
are important, but the work of reproductive justice activists on the ground, particularly in the South, isn't getting the same airtime. We may go to a reproductive rights rally and not see people who look like us leading the way.

The reproductive freedom movement must work in tandem with other liberation movements. Reproductive justice fits in the national conversation around police brutality because of how much policing is centered in health care. Many people are self-managing their abortions by taking mifepristone and four misoprostol pills within 48 hours. But without a doctor present, that's a crime in some states. So people go to the ER if they have side effects, and doctors, social workers, or someone who's anti-abortion might call the police, which has happened in a couple of cases.

It's important we make that connection between reproductive justice and criminalization, while centering on Black, Brown, and trans people who are being criminalized and murdered. We have to invest in people who have abortions as leaders in this movement, particularly those who are underrepresented—trans men, people with disabilities, lesbian abortion storytellers, undocumented abortion storytellers, incarcerated people—and show what their experiences look like.

Learn more about *We Testify* at [wetestify.org](http://wetestify.org). Find weekly episodes of *At Liberty* wherever you get your podcasts or online at [aclu.org/podcast](http://aclu.org/podcast).

PHOTOGRAPH BY ERIC KAYNE/CENTER FOR REPRODUCTIVE RIGHTS/AP PHOTO



## **Brown v. Board of Education** May 17, 1954

Nearly 67 years ago, *Brown v. Board of Education* determined that racial segregation in public schools is unconstitutional. The ACLU filed a friend-of-the-court brief in the case and celebrated the defining moment it marked in U.S. history. But the promise of *Brown* remains elusive. A new report from UCLA's Civil Rights Project shows that, since 1988, the number of "intensely segregated minority schools" (those that enroll 90 percent to 100 percent non-white students) has more than tripled. Today, the pandemic continues to exacerbate divides along race and class lines, leaving behind low-income students—disproportionately students of color—who may lack the necessary technology to engage in remote learning. The ACLU is demanding that Congress provide billions of dollars in funding as part of the next COVID-19 relief package to meet students' technology needs and ensure equal access to education for all. —TOM VELLNER



PHOTOGRAPH BY JOHN T. BLEDSOE/LIBRARY OF CONGRESS

# I can create a just future

with a gift in my will to the ACLU.

**I believe we can create a more just future.** That's why I'm leaving a gift in my will. With my gift, I'm passing along the values I've lived to the next generation of civil rights champions.

To learn more, please return the enclosed reply envelope or visit [www.aclu.org/mylegacy](http://www.aclu.org/mylegacy).

**ACLU**

**American Civil Liberties Union  
Foundation, Inc.**

125 Broad Street, 18th Floor  
New York, NY 10004-2400

NONPROFIT  
U.S. POSTAGE PAID  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION, INC.



## **I imagine** an equal future with a gift in my will to the ACLU.

**I imagine a more equal future passed along to the next generation.** As a believer in equality and justice, I know leaving a gift in my will is 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](http://www.aclu.org/mylegacy).

**ACLU**