

the defender

LIMIT
USE
OF
FORCE

WINTER
2021

REIMAGINING

PUBLIC

CRISIS
INTERVENTION
TEAMS

SAFETY

CITIZEN
REVIEW
BOARDS

DECriminalize
MARIJUANA

REMOVE
SCHOOL
RESOURCE
OFFICERS

INCREASE
TRANSPARENCY

BAN
RACIAL
PROFILING

It is one of the most extreme attacks on women's health in Iowa history. It would undermine the legal precedents that have been the foundation of our abortion rights victories in court .

ABORTION RIGHTS: THE BIG ONE



FOR YEARS, POLLS HAVE SHOWN THE MAJORITY OF IOWANS SUPPORT ABORTION RIGHTS.

But politicians aren't listening. They instead have sought to deny Iowans the right to make decisions

about their health, their bodies, and their families by limiting access to abortion care.

And now the latest attempt to strike down abortion rights is also one of the most egregious: a proposed amendment to the Iowa Constitution that would explicitly state that Iowans do not have a right to an abortion.

Attempts to restrict or even ban abortion are nothing new. Over the years, our legal team has been able to block or limit erosions of abortion rights. These include the so-called fetal heartbeat law, which would have blocked an abortion before many people even knew they were pregnant, as well as laws that would put up new hurdles to getting the actual procedure, like additional medically unnecessary appointments and mandatory waiting periods.

But this effort to amend the Iowa Constitution is different, and even more dangerous. We are calling it The Big One because it is one of the most extreme attacks on women's health in Iowa history. It would undermine the legal precedents that have been the foundation of our repeat Iowa abortion rights legal victories, victories that have kept abortion more accessible. It strikes at the very core of bodily autonomy, and its impact could be wide-ranging and devastating.

If abortion access is further restricted, as usual, the most vulnerable populations

with the fewest resources would be most impacted: People struggling to make ends meet, young people, people with disabilities, and Black, Indigenous, and people of color.

To become a law, the amendment must first pass two General Assemblies of the

Iowa Legislature. It has already passed one and we expect it, unfortunately, to pass a second General Assembly. Then it will go on a statewide ballot before voters, probably in 2024.

That might sound like a ways off, but it's not. We're already taking action, working with partners like Planned Parenthood to craft advocacy strategies and plan voter education and mobilization efforts.

We're asking you to do your part, too. Of course, you can donate to the ACLU of Iowa to help fund these efforts, and that is always deeply appreciated. But we also invite you to speak up and educate your friends, family, and neighbors about the issue and urge them to vote to strike down this amendment. Write a letter to the editor or a guest column in your local paper.

Also please consider joining our growing group of activists throughout the state who are ready to show up, organize, and advocate for abortion rights, as well as other civil liberties. You can contact us at outreach@aclu-ia.org.

It's an all-hands-on-deck kind of moment. Your help is very much needed. And, as always, we will be grateful to work with and for you.

Mark
MARK STRINGER
ACLU of Iowa
Executive Director



THE DEFENDER IS THE NEWSLETTER OF THE ACLU OF IOWA AND THE ACLU OF IOWA FOUNDATION

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SCHOOL MASK BAN PUT ON HOLD BY COURT

A lawsuit by students with disabilities secures an order so schools can require masks

Charmaine Alexander had to make a terrible decision: Send her young son, Corban, who has asthma, to school where others aren't wearing masks and endanger his health and possibly even his life, or keep him at home, even though his Johnston school isn't offering online learning.

It's a choice no parent should have to make. But a law passed by the Iowa Legislature earlier this year and signed by Gov. Kim Reynolds bans Iowa public schools from requiring anyone to wear a mask.

UNEQUAL EDUCATIONAL OPPORTUNITY

The ACLU, volunteer attorneys, and other disability advocacy organizations have filed a lawsuit on behalf of Alexander, 10 other parents, and an Iowa disability rights organization. The goal is to block this discriminatory, dangerous law.

As of publication, the law has been put on

hold and many schools have mandated masks. The lawsuit seeks to permanently allow districts to adopt mask mandates to protect students with disabilities.

DISCRIMINATION AGAINST STUDENTS WITH DISABILITIES

The children in the suit are in districts that offer varying levels of remote learning. Some, like Johnston, offer none. Some offer only pre-recorded sessions with no live interaction. Others offer more. But the right to nondiscrimination and equal access to education requires reasonable accommodations—like following CDC guidance on masking—so students with disabilities can attend in person.

The ban on school mask mandates is a violation of the Americans with Disabilities Act [ADA] and Section 504 of the Rehabilitation Act.



Why I Give

I support the ACLU of Iowa, because it's important for me to contribute to the legacy that teaches children **people first**. I want my children to grow up knowing that there are those who work tirelessly to defend their freedoms and the rights of all people.

LENG VONG REIFF
Clive

GIVE TO THE ACLU OF IOWA

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☐ I/We wish to remain anonymous.

Mail to: ACLU of Iowa, 505 Fifth Ave. #808, Des Moines, Iowa 50309-2317.

Make your gift online: Visit www.aclu-ia.org/donate
Contributions to the ACLU Foundation of Iowa, a 501(c)(3) organization, are tax-deductible to the extent of the current tax code.

REIMAGINING

public safety

THE AFTERMATH OF GEORGE FLOYD'S MURDER HAS MADE IT CLEAR THAT
PIECEMEAL POLICE REFORM ISN'T ENOUGH.

It's time for major, bold change that is nothing short of reenvisioning law enforcement nationally and in Iowa.

Truly Safe Communities

Instead of continuing to pour more money into over-policing by Iowa law enforcement, we must move forward with a major overhaul of how we parse out dollars to keep communities truly safe and to make sure

all people are treated fairly under the law.

Overtasked and Under-trained

For too long, police departments have been given too many tasks without enough training. Many of these jobs could far better be carried out by social workers, mental health professionals, counselors, drug and alcohol specialists, or non-armed traffic enforcement. For example, routine traffic stops—which too often end up

with a police officer hurting or even killing someone—don't usually need to be handled by a police officer with a weapon.

Fund Other First Responders

Police can't solve every problem our communities face. Even some police chiefs acknowledge that police are poorly equipped to deal with situations like mental health crises, neighbor disputes, and drug overdoses. In many cases, it's not armed police but social workers and healthcare

professionals who should respond to emergency calls.

Low-Level Offenses

Police spend the bulk of their time on low-level offenses like outdated license plates and marijuana possession that are disproportionately enforced against

Black people and other people of color, not dealing with violent crimes. In 2017, 95 percent of arrests made nationally were for petty behaviors. We should find new ways to deal with these low-level offenses differently, including legalizing marijuana.

A BLACK PERSON IN IOWA IS

7x MORE LIKELY TO BE ARRESTED FOR MARIJUANA POSSESSION THAN A WHITE PERSON, EVEN THOUGH BOTH GROUPS USE AT THE SAME RATE

THAT'S ONE OF THE WORST RATES IN THE COUNTRY

BLACK IOWANS IMPRISONED AT A RATE

11x THAT OF WHITE IOWANS

ALSO ONE OF THE WORST RACIAL DISPARITIES IN THE COUNTRY

BLACK PEOPLE MAKE UP

4% OF THE IOWA POPULATION, YET ACCOUNT FOR **30%** OF INCIDENTS WHERE POLICE DREW GUNS OR USED FORCE

ACCORDING TO AN IOWA DEPARTMENT OF PUBLIC SAFETY INTERNAL REPORT



WHAT SHOULD

PUBLIC SAFETY REFORM

IN IOWA LOOK LIKE?

- **CRISIS INTERVENTION TEAMS.** Trained non-police professionals, including nurses, doctors, psychiatrists, and social workers—should be the ones to respond to non-violent incidents, like a person in mental health crisis.
- **STOP CRIMINALIZING HOMELESSNESS.** Change laws that criminalize poverty and homelessness, like panhandling laws.
- **LEGALIZE MARIJUANA.** It's used too often as an excuse to pull people, including very young people, into the criminal system and has significant racial impact. A Black person in Iowa is far more likely than a white person to be arrested for marijuana possession, even though both groups use at the same rate.
- **BAN RACIAL PROFILING.** Repeatedly, we see Black and Brown people pulled over for questionable—and pretextual—reasons, like an alleged illegal left turn, a taillight that was claimed to be out, or loud music, when those same police officers don't pull over white drivers for the same. This leads to racially disproportionate stops, searches, and arrests. And as video after tragic video has documented, these stops can result in unnecessary humiliation, fines, arrests, severe injuries, and even deaths.
- **END SCHOOL RESOURCE OFFICER PROGRAMS.** There is very little evidence that these programs keep students safe, but there is ample evidence that they wrongly trap students—especially Black students and students with disabilities—into the legal system and create a school-to-prison pipeline.
- **MORE CITIZEN REVIEW BOARDS.** We need *meaningful* citizen review boards that have the power to truly make police departments more accountable. And they must be utilized in a way that doesn't absolve city councils and other elected officials of their responsibility of overseeing law enforcement.
- **INCREASE TRANSPARENCY.** Police misconduct must not be concealed. For example, body cameras have been purchased by Iowa cities at great expense, with the expectation that the footage could document what exactly happened during violent or other questionable police interactions. Instead, too many police departments are refusing to turn over footage.
- **MINIMIZE POLICE VIOLENCE DURING PROTESTS.** Too often, police use dangerous techniques like kettling, rubber bullets, tear gas, and sound cannons to disperse protests that were non-violent until police arrived and began harassing or harming protesters.

[ACLU ACTION ITEMS]

AT BOTH THE STATE AND NATIONAL LEVELS, THE ACLU IS FOCUSED ON THE FOLLOWING THREE GOALS TO FUNDAMENTALLY CHANGE THE WAY LAW ENFORCEMENT OPERATES

1 Prohibiting police from enforcing a range of non-serious offenses and eliminating many of the unnecessary interactions between the police and community members that have led to so much violence and so many deaths.

2 Reinvesting savings from a reduced police force into alternatives to policing that will keep local communities safe and help them thrive.

3 Implementing common-sense, legally enforceable constraints so that there are only very rare instances in which police officers can use force against community members.

WE'LL BE PUSHING FOR THESE REFORMS IN THE UPCOMING LEGISLATIVE SESSION AND THROUGH ADVOCACY WITH OUR PARTNER ORGANIZATIONS THROUGHOUT THE STATE.

excessiveforce

WITH APPALLING FREQUENCY, POLICE IN IOWA ARE INJURING AND EVEN KILLING PEOPLE, WITH BLACK PEOPLE BEING DISPROPORTIONATELY HARMED.

DERRICK AMBROSE, JR.

Derrick, 22, died in 2012 after running from police following a disturbance outside a Waterloo nightclub. According to the family's attorney, a police officer saw Derrick holding a handgun and ordered him to drop it. A pursuit began and at some point, Derrick threw the gun aside. Police say they didn't know that and that Derrick fell, got up, and refused the officer's command to remain on the ground. But the family's attorney says Derrick didn't fall; he was shot in the back running away unarmed. Derrick died on the spot.

A 2013 grand jury probe declined to charge the officer who shot Derrick. The decision was met with protests and local civil rights leaders calling for a federal investigation. Then, in 2016, the City of Waterloo reached a \$2.5 million settlement with Derrick's parents and attorneys, but admitted no wrongdoing.



DUSTIN BURNIKEL

One night in 2013, Dustin, then 32, says he saw a man throw a woman to the ground outside a Des Moines bar. He says that when he asked, "Why are you hurting her?" the man turned around and pepper-sprayed Dustin in the face. Another man also approached and pepper-sprayed Dustin as well.

As it turns out, the two men were Des Moines Police Department officers, off duty and working security, one of whom has a history of excessive force violations. Dustin says they handcuffed him and then dropped him on his face, resulting in severe injuries. They claimed he was interfering with an arrest, though a jury later acquitted him. Dustin was awarded a significant amount to cover damages, including physical and mental pain and medical expenses.



NICHOLAS TEMPLETON

Nicholas, 32, was stopped while driving in 2019 by Des Moines Police Department officers who assumed he was driving under the influence. (Later examination at a hospital proved that Nicholas was actually suffering from a seizure.) Nevertheless, police alleged he resisted arrest and cuffed his hands and feet in a "hog-tie" position, according to court allegations, two officers applied "their body weight to Templeton's back and legs" while he told them he couldn't breathe.

Court documents state his face turned "purplish-blue" before medics instructed officers to remove their body weight and restraints. The Duff Law Firm and Ben Lynch Law are now representing Nicholas in a lawsuit against the Des Moines Police.



JERIME MITCHELL

In 2016, Jerime, 42, was pulled over by a Cedar Rapids police officer who said his license plate light was not working. The officer claimed he smelled marijuana and asked Jerime to get out, but that Jerime resisted being handcuffed. Jerime's lawsuit said the officer pushed him against the truck and then onto the ground, and that he then got up with the officer on his back and a police dog attacking him. In fear, he says, he got back into his truck and begin to drive away.

The officer held onto the moving truck and fired three times. Jerime was immediately and permanently paralyzed. The officer was terminated and the city's insurance company paid millions to Jerime. "It doesn't matter how much money I get," he said. "But I am glad that the police officer was fired and will not harm anyone ever again."

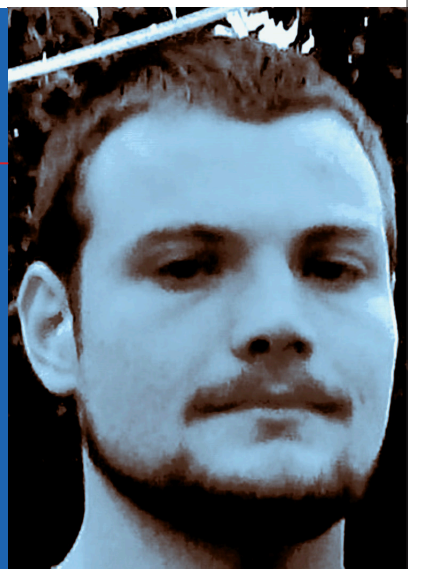


Photo Credit: KCRG-TV9

DREW EDWARDS

Law enforcement was in the process of arresting Drew, age 22, in 2019 for simple assault following a domestic dispute. But he died after he was shocked a dozen times with a stun gun and was also suffocated by a Maquoketa police officer and a Jackson County Sheriff's deputy. They sat on his head, neck, and body for more than 10 minutes, according to police body camera footage and reports gathered by the family.

The City of Maquoketa and Jackson County in eastern Iowa paid \$4.5 million to settle a lawsuit brought by Drew's family.





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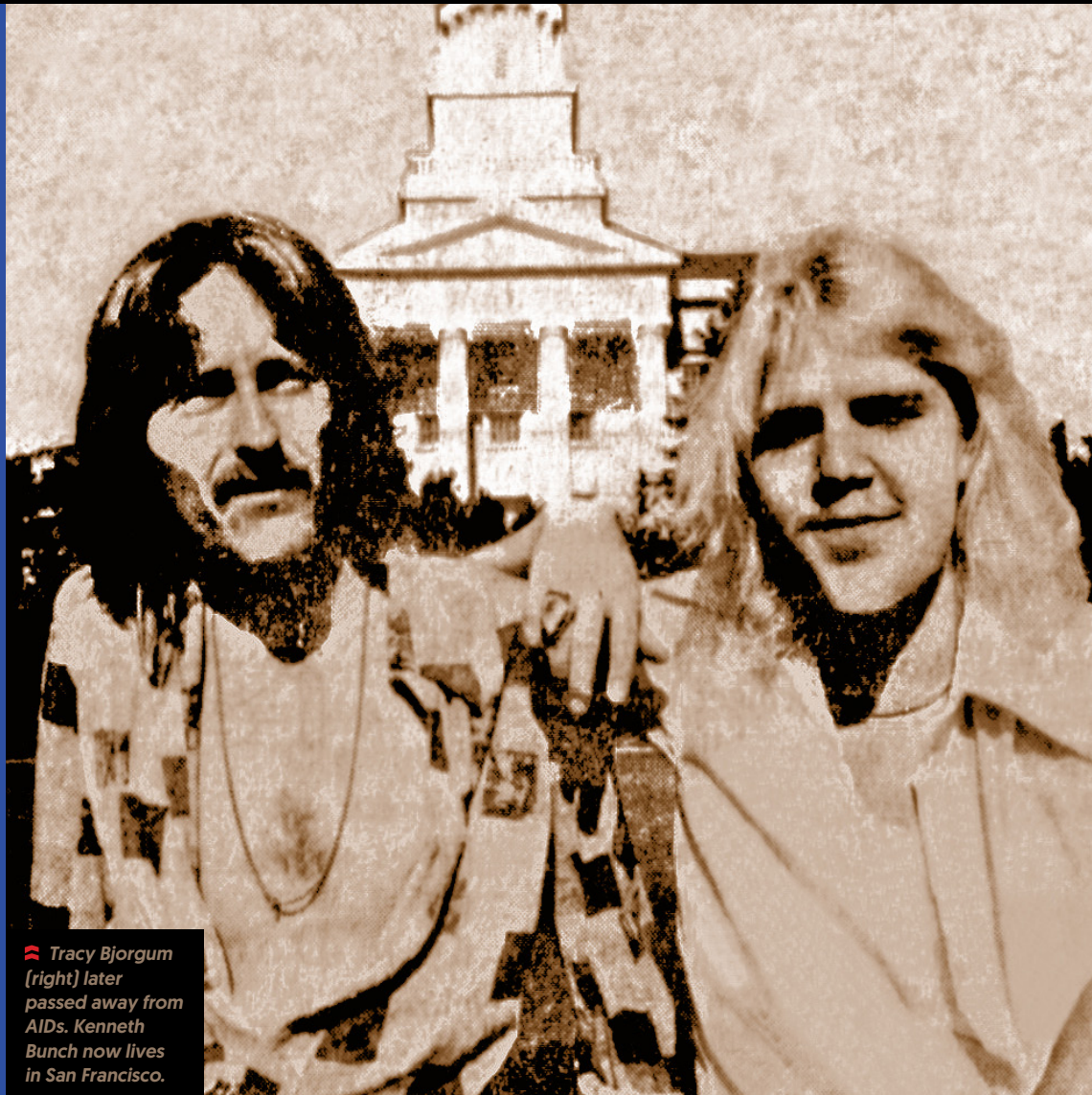
ACLU MOMENT


November 24
1976

Kenneth Bunch and Tracy Bjorgum file a lawsuit for the right to marry

Back in the 1970s, few people were even aware of the issue of marriage discrimination against same-sex couples. So it was ground-breaking when the ACLU of Iowa helped two Iowa men file a lawsuit because the Johnson County Recorder's office wouldn't let them file an application for a marriage license. It was only the second such lawsuit in the country.

Kenneth and Tracy were never able to marry, but their lawsuit was an opening round in the fight for marriage equality, one that would continue until it was recognized nationally in 2015 by the U.S. Supreme Court.



 **Tracy Bjorgum**
(right) later
passed away from
AIDs. Kenneth
Bunch now lives
in San Francisco.