



THE DEFENDER

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Newsletter of the American Civil Liberties Union of Iowa

Victory In Striking Down Telemedicine Abortion Ban

The ACLU of Iowa filed a friend of the court brief in this case, which ensures access for rural women and others to this safe and legal method of dispensing medication.

In June, the Iowa Supreme Court handed down a ruling that allows Planned Parenthood of the Heartland to continue to provide women in various Iowa locations access to medication-induced abortions through first-in-the-nation use of telemedicine technology. It was a victory in which the ACLU of Iowa was proud to play a part.

“The decision is important because the ban was an extreme form of political interference with the ability of a woman, particularly in rural Iowa, to make a private health decision



Photo: Janet Rosenbury

Marriage Equality Celebration Rally

In July, the ACLU succeeded with a major win in the U.S. Supreme Court for marriage equality. Supporters across the country and in Des Moines gathered to mark the historic decision. At the Iowa State Capitol, ACLU of Iowa Executive Director Jeremy Rosen spoke at a One Iowa rally. Story on page 3.

to access safe and legal medical care,” said Rita Bettis, ACLU of Iowa legal director.

In 2010, the Iowa Board of Medicine determined that the telemedicine system to prescribe abortion medication was consistent with prevailing standards of medical care.

However, in 2013 Gov. Terry Branstad replaced all individual board members and the board then banned the use of telemedicine to access abortion. That reversed the board’s prior determination.

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Developing a Bullying Bill That Preserves Free Speech

For three years in a row, the ACLU of Iowa and other free speech advocates have blocked proposed anti-bullying bills. Next session, we hope for a bill that protects kids and their First Amendment rights.

Kids in Iowa have a right to safe, nondiscriminatory school environments. They also have the right to schools that protect their civil and constitutional rights, including freedom of expression and due process. That lack of protection was a key flaw in the proposed anti-bullying bill during the 2015 Iowa legislative session.

The proposed legislation would have expanded the authority of schools to monitor, investigate, and ultimately impose punishment for constitutionally protected speech.

This would have included speech made outside of school hours, off school time, and in a variety of electronic and social media. Nothing in the bill restrained schools’ ability to investigate and punish kids for what they might say or write at home with their parents, over the summer at camp, in a church group, or while working at an after-school job. Schools would have been permitted into virtually every aspect of students’ lives.

The ACLU of Iowa suggested five amendments to the bill, provisions that should also be kept in mind next year if another anti-bullying bill is filed.

1. Limit school monitoring and complaints about student speech to school-related situations.

Schools should not be held liable nor have

incentives to monitor students’ social media and electronic communications outside of school and related activities—that has a chilling effect on students’ ability to exercise their free speech rights.

Outside the school setting, complaints about bullying should be left to the parents and students to initiate. Otherwise, schools may face incentives to monitor students’ speech whenever possible to limit their own liability for failing to initiate a formal complaint and investigation of alleged bullying.

2. Limit the scope of the bill simply to protecting students.

The bill should have been amended also to make clear that the law protects *students* from bullying. There have been cases where students

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AMERICAN CIVIL LIBERTIES UNION of IOWA

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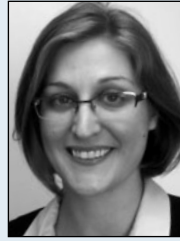
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The 2015 Legislative Session in Review

After the session, we can mark progress and assess setbacks for basic freedoms and constitutional rights. Here's a snapshot of three ACLU legislative priorities.



Rita Bettis

Racial Inequality and Unfairness in the Criminal Justice System

Over the last four decades, Iowa, like the rest of the country, has expanded the size of our criminal justice system, needlessly throwing away too many lives and wasting billions of taxpayer dollars. In Iowa, our system is unproductive, wasteful, and when it comes to racial disparities, we stand out among the *worst* in the country:

- Over the next 10 years, the prison population in Iowa, already unacceptably high, is expected to increase by 40 percent.
- Iowa has the second-highest percentage rate of incarceration of African Americans in the country.
- Iowa has the worst racial disparity in marijuana arrests: a black Iowan is on average 8 times more likely to be arrested for marijuana possession in Iowa than a white Iowan, despite equal usage rates.

Unfortunately, another legislative session has ended without passage of significant reform of Iowa's drug sentencing laws. Evidence of progress could be seen with the state Senate passing an amendment to a House bill (H-1340 to HF567) that would have granted judges discretion to depart from mandatory minimum sentences in some cases, reduced the penalty for first-offense marijuana possession, and reduced the disparity between powder cocaine and crack cocaine penalties. However, the amendment was stripped from the bill in conference committee.

Next session, lawmakers should work across the aisle to pass smart reforms that will restore fairness to our criminal justice system by ending the war on drugs, reforming mandatory minimum sentences, and instituting sensible, effective diversion programs (such as drug treatment). Instead of these drug sentencing laws, lawmakers should invest in systems to address mental illness, substance abuse, and poverty.

Cruel and Unusual Sentencing in Iowa

The United States is the only country in the world that sentences children to die in prison. This despite the U.S. Supreme Court and Iowa Supreme Court recognizing the fact that children have lesser culpability and a greater capacity for change. In a climate of reform in this area, with states boldly moving to eliminate life without parole sentencing for children, we are saddened and outraged that SF 448, which allows juveniles to be sentenced to life without parole, passed the Iowa legislature this year.

Iowa stood out as the *only* state to pass a bill to maintain this sentencing option. Sadly, legislators voted for the bill under the urging of the Iowa State Bar Association, which departed from the national and international moral and legal consensus.

In fact, unlike its Iowa counterpart, the American Bar Association has passed a resolution calling for states to eliminate the option to sentence juveniles to life without parole and to provide a meaningful opportunity for release through parole. We believe the law is deeply flawed, unconstitutional, and destined to be struck down as such in the near future.

Protecting Domestic Violence Victims

A broad coalition of advocates, including the ACLU of Iowa and the Iowa Coalition Against Domestic Violence, saw incremental success toward passage of legislation to ensure that victims of domestic violence, people with disabilities, and other vulnerable populations don't face eviction and other negative housing consequences as a result of calling the police for assistance.

The legislation is needed because cities like Cedar Rapids and Waterloo have passed "crime nuisance ordinances," which place tenants, including those calling for help with domestic violence, under threat of eviction for calling the police. We were encouraged that our bill, HF493, which would ban these draconian ordinances, passed the House with unanimous, bipartisan support. However, it has been temporarily blocked in the Senate by Senator Rob Hogg from Cedar Rapids, despite the pleas of advocates and clear accounts of harm to victims. In the 2016 session, we will focus our energies to pass this critical bill in the state Senate.

Rita Bettis
ACLU of Iowa Legal Director

The Long and Winding Road to Marriage Equality

The path to marriage equality in this country and in Iowa has had many twists and turns.

July's historic marriage equality win in the U.S. Supreme Court marks a victory in a battle that started almost 80 years ago.

In 1936, the ACLU brought its first LGBT rights case, defending the right of a New York play to include lesbian content.

In 1976, the ACLU of Iowa brought the first marriage equality lawsuit in this state and the second such lawsuit in the country (Minnesota was the first in 1970).

We filed a petition on behalf of Tracy Bjorgum and Kenneth Bunch, two Iowa City men who were denied a marriage license in Polk County. It was unsuccessful, but an important opening round in a long struggle toward marriage equality.

Kenneth Bunch, now 63, a native of Des Moines and Iowa City, lives in San Francisco. Tracy Bjorgum died from complications from AIDS in 1989.

Changing LGBT Rights Attitudes

Bunch, like so many others, has been gratified to see widespread acceptance of gay people and marriage equality.

A gay rights activist starting in 1973 when he came out, Bunch said, "Tracy and I always knew that the best way to secure our rights was to get to know people." Applying for a marriage license, "was part of that effort to be more visible."

When the Des Moines Register



Larry Hoch, left, and David Twombly, were two of the several plaintiffs in the 2009 case *Varnum v. Brien* that ensured civil marriage equality in Iowa.

published their photo in 1976 when the two men filed for a license, "it was the first time Iowans realized that they had met gay people. At that time, most Iowans didn't think they knew any gay people, though of course they did," Bunch said.

Varnum v. Brien Win

Fast-forward to 2009, when the ACLU of Iowa filed a friend-of-court brief in the historic *Varnum v. Brien*. That Iowa Supreme Court ruling made Iowa one of the first states to recognize marriage equality.

Now, 39 years later, the ACLU is seeing national victory for marriage equality in

the U.S. Supreme Court, whose recent decision involved the ACLU cases *Obergefell v. Hodges*, involving an Ohio couple, and *Bourke v. Beshear* and *Love v. Beshear*, originating in Kentucky.

A Continuing Struggle

Yet there remains much more work to be done for LGBTQ rights in the months and years to come.

We are especially committed to preventing discrimination against LGBT individuals, disguised as an exercise of religious freedom. We will also work to protect the rights of transgender people. ■

Victory In Striking Down Iowa's Ban on Telemedicine Abortions

Continued from page 1

The ruling gained national attention since conservative lawmakers in other states have sought to pre-emptively ban telemedicine abortions.

The ACLU of Iowa filed a friend-of-the-court brief in the case in support of Planned Parenthood of the Heartland's challenge of the ban. The brief argued that a woman's right to make her own decision about childbirth and pregnancy is a fundamental right protected by the Iowa Constitution. ■



PATRIOT ACT PETITION DELIVERED TO GRASSLEY

In May, the ACLU of Iowa's Executive Director Jeremy Rosen and lobbyist Pete McRoberts delivered a petition calling for an end to Section 215 and two other sections of the Patriot Act. The 60,000 signatures were given to Aaron McKay, regional director in the Des Moines office of U.S. Senator Charles Grassley.

Under Section 215, the National Security Agency collects records of Americans' phone calls every day, giving the government a detailed picture of innocent citizens' lives and relationships.

The petitions were part of a successful national effort to lobby



Photo Benjamin Allen

senators to allow those portions to expire. A few days after the petitions were delivered by the ACLU, the Senate passed the USA Freedom Act, which limits mass surveillance under Section 215 of the Patriot Act and other authorities.

Edward S. Allen Award Honors Iowa Civil Libertarians

This new award recognizes key Iowans who have left a significant civil liberties legacy.

The past year marked the passing of three Iowans who have done much to defend and advance civil liberties for all Iowans. As a result, to recognize them in a fitting way, we created a new award to recognize such individuals.

The Edward S. Allen Award is named after the Iowa State University math professor who founded the ACLU of Iowa in 1935.

This award can be given to more than one person a year, but there is no requirement to present it each year. Instead, the award will be given out judiciously to those Iowans whose civil liberties accomplishments have been truly significant and lasting.

This year's three winners will be recognized at the ACLU of Iowa 80th Birthday Bash on October 2 (see page 7).

Dennis Barnum

Dennis Barnum joined the ACLU of Iowa Board of Directors approximately 15 years ago. He was a former ACLU of Iowa board president who also served on the national ACLU board.



Dennis Barnum

He was a passionate supporter of civil liberties and remained active in the ACLU of Iowa until the end of his life.

Beloved and effective, Barnum managed to both amuse and inspire. For several years, he traveled across the state at his own expense to visit donors, logging more than 1,000 miles.

Barnum was an impassioned social activist for a variety of human rights and civil liberties. He also served as president of Iowans Against the Death Penalty.

Mary Garst

Mary Garst's list of accomplishments is long and distinguished, but the ACLU has a special appreciation for her work in defending the rights of others. Involved in the Garst Company, she was an award-winning cattle rancher. She went on to serve on the Chicago Federal Reserve Board and several corporate boards, often being one of the first women to have such a prominent role in these businesses.



Mary Garst

Mary served as ACLU of Iowa board president for several terms in the '80s and '90s, completing her last term in 1993. She continued to be an active supporter and special solicitor.

Another notable achievement: She raised a clan of daughters who have all been active in the ACLU.

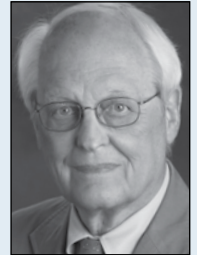
Liz and Sarah Garst have both served as board presidents and Rachel has served on the board. All three continue in leadership and advisory roles. Jennifer and Kate also have been appreciated supporters.

Art Neu

Art Neu's distinguished political and public service career included a commitment to civil liberties.

Neu served as a lieutenant governor, state senator, member of the Iowa Board of Regents and Iowa Board of Corrections, and mayor of Carroll. He was also a passionate civil libertarian who throughout his life advocated for the individual liberties of all.

Jefferson Bee & Herald publisher and editor Rick Morain, described Neu this way: "I would call him a liberal Republican, a species that has pretty well disappeared from the political scene. Not many western Iowa Republicans are also active members of the American Civil Liberties Union, as was he. Art was adept at conversation, and I would have feared to oppose him during a legislative debate or in the courtroom." ■



Art Neu

A Bullying Bill That Would Preserve Free Speech for Students

Continued from page 1

have been punished for Facebook or other online posts that were critical of teachers or administrators. For example, a 12-year-old girl in Minnesota was punished for "bullying" an adult hall monitor when the student posted on Facebook that the hall monitor had been mean to her.

3. Include time limits.

The further into the past that schools are authorized to look, the more the potential chilling effect of disciplining students for their speech away from school will be amplified. To justify the investigation, the alleged bullying

should be reasonably current, and not, for example, from a prior school year.

4. Don't feed the school-to-prison pipeline even more.

The language in the bill that specifically authorizes school personnel to refer alleged incidents of bullying or harassment occurring off school grounds to "law enforcement agencies" should have been removed. The appropriate response to an alleged incident of bullying may or may not involve formal discipline, much less referral to law enforcement.

We know that when school discipline is imposed, it is imposed more often and more harshly against students of color—sometimes referred to as the school-to-prison pipeline. It's important for the anti-bullying and anti-harassment bill not to become another tool for draconian school discipline that can be expected to have disparate racial impact.

5. Keep schools' authority at school.

The bill should make clear that schools have the authority to investigate speech made outside of school only when some component of the alleged bullying occurred at school or was otherwise under the school's authority.

The ACLU supports the crucial effort to reduce bullying in our schools. With the right amendments, the ACLU would not oppose anti-bullying legislation.

We continue to work toward a safe school environment for all kids where their freedom of expression is championed. ■



LEARN MORE

For more information, detail, and updates on the issues you read about here, go online to www.aclu-ia.org.

Sarah Conroy Named New Director of Development

Conroy's previous experience includes working on major gifts at Drake Law School.



Sarah Conroy

Just in time to help launch the ACLU of Iowa's Annual Gifts Campaign, Sarah Conroy has joined the affiliate's growing staff.

Conroy has worked for 9 years in non-profit development. Most recently, she was the Major Gift Officer for Drake University Law School, where she was responsible for

the strategic vision and implementation of all fundraising initiatives from annual giving to major gifts.

Previously, she also spent 6 years working in the Iowa State University Foundation's annual giving program.

Conroy started in July and is taken the lead in the ACLU of Iowa's already-strong development program. Her most pressing task will be to launch the Annual Gifts Campaign next month.

ACLU of Iowa Executive Director Jeremy Rosen said, "With the addition of Sarah, the ACLU of Iowa is building a team that will truly boost our capacity to defend the civil liberties and civil rights of

all Iowans. She brings strong leadership and new strategies to our development program. With her track record of success, we're confident she can help us broaden our donor pool and strengthen donor engagement to ensure that our organization continues to thrive in the coming years."

A native of Clinton, she received her bachelors' degree in journalism and masters' degree in family financial planning, both from Iowa State University.

Conroy lives in Ames with her wife, Mary Conroy, who is an attorney in the Des Moines office of the Iowa State Public Defender. ■

2015 Annual Gifts Campaign To Launch in September

The attacks on civil liberties in Iowa continue, and we rely on you to keep the ACLU strong and effective.

Each fall the ACLU of Iowa, with the help of its dedicated Board of Directors and special solicitors, carries out its Annual Gifts Campaign. Thanks to the generosity of donors like you, each year we are able to raise funds to not only maintain but increase our effectiveness in defending civil liberties in Iowa. Key areas of focus include:

• **Efforts to curtail voting rights continue.** The ACLU of Iowa has been the leader in fighting these attempts with successful litigation and advocacy to defend the right of all qualified Iowans to cast their ballot.

• **Much work remains on marriage equality.** With July's U.S. Supreme Court marriage equality ruling, we celebrate a major win. But we still must effect further change so that gay couples who marry and others in the LGBT community enjoy the equal rights under the law.

• **Women's reproductive rights are constantly under assault.** We have been successful in assuring rural women's access to telemedicine abortions and halting other legislative and legal efforts to block a woman's right to control her body.

• **The struggle for comprehensive immigration reform continues.** We are playing an important role in gaining more rights for DACA and DAPA recipients, advocating against unconstitutional

detainers, and granting driver's licenses for all qualified Iowans regardless of immigration status.

• **We continue to fight mass incarceration.** We are doing all in our power to combat racial disparities and other criminal justice problems that have led to record levels of imprisonment.

• **The ACLU has led the charge to protect the privacy of Iowans.** From drones to traffic light cameras to mass surveillance through automatic license plate readers and body cameras, we want to make sure government surveillance stays within constitutional bounds.

We appreciate your past support and we look forward to your continuing support in the future! ■

Support Civil Liberties in Iowa!

Make your gift with this mail-in coupon or go to www.aclu-ia.org and click on "Donate Now."

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I pledge to make a gift of \$ _____ before (date) _____.

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1502NWS

Student Wins Mannheim Award For Fighting Hate Speech With More Speech

Roosevelt student Glori Dei Filippone led hundreds in a Love Rally to counter a planned Westboro Baptist Church demonstration at East High School.



Glori Dei Filippone

It might seem contradictory that the ACLU would give an award to someone who successfully counterprotested one of this organization's former clients. But Glori Dei Filippone did just that and in the process demonstrated a nuanced understanding of the First Amendment—that the way to contest speech with which you disagree is not to try to stop it but instead to counter it with more speech.

2015 Youth Advocacy Award Winner

For her preservation of free speech while standing up for LGBT rights and defense of other civil liberties, Glori has been awarded the 2015 Robert Mannheim Youth Advocacy Award. The award is given annually to an Iowan age 14 to 19 who demonstrates a passion and advocacy for civil liberties.

Last year the Westboro Baptist Church announced plans to picket a series of Iowa locations, including East High School in Des

Moines. Westboro Baptist Church, based in Kansas, protests at soldier's funerals and desecrates the flag to voice what they say is God's objection to gay people in America.

The ACLU of Iowa represented Westboro in a successful lawsuit that defended its right to air spit, drag, and otherwise treat American flags disrespectfully. Church members were threatened with arrest in three Iowa towns during protests in which they desecrated the flag. In response to the ACLU's lawsuit, a federal district court last year ruled that Iowa's state laws prohibiting flag desecration were unconstitutional.

Show of Support for LGBTQ Rights

Glori, with fellow Central Campus student Cole Rehbein, heard about the planned Westboro protests at East High. So to show support for LGBTQ rights, they organized a lunch-time "Love Rally" at East High, which drew 700 students from all over Des Moines.

Glori has also been an effective advocate for civil liberties in other ways.

Earlier, she and Cole organized a Black Lives Matter protest at Central Campus. She stood up to bullies who were harassing a



The "Love Rally" that Glori was key in organizing last year

transgender classmate, respectfully spoke up during class to a teacher who was making what Glori felt were racist comments, and worked on a video on voting rights and equal pay for women.

Other Winners

The runner-up in the 2015 Mannheim Award is Kaija Carter, who has organized a number of peaceful gatherings around Des Moines to draw attention to racial disparity in Des Moines and statewide.

Devon Allerman, a Des Moines junior at Southeast Polk high school, received an honorable mention for his work in LGBTQ advocacy. He started Ankeny's middle and high school Gay-Straight Alliance (GSA) and is a leader in the Southeast Polk GSA, which received the Best Iowa High School GSA award. He also has been on the board of directors for the Iowa Pride Network. ■

Legal and Communications Interns Assist Over Summer

Allen Barr

A Newton native, Barr graduated from Drake with degrees in physics and philosophy. He's now a second-year law student at the University of Minnesota Law School and wants to go into public interest law, especially in civil liberties and technology. "I wanted to intern at the ACLU because although many organizations help clients on a case-by-case basis, the ACLU stands out in ensuring sweeping safeguards for civil liberties."



Matthew DeJong

One of two communications interns this summer, DeJong is a native of Orange City. He is a senior at Dordt College majoring in political science with a minor in sociology. After graduation, he's planning on a law degree.

Besides the usual interns tasks, DeJong also researched Iowa cities' nuisance ordinances.

DeJong said he wanted to intern with the ACLU "because they fight for everyone's rights; it doesn't matter who they are or if I agree with their point of view."



Hunter Thompson

Thompson is a senior in communication and philosophy at the University of Northern Iowa. Originally from Monticello, he worked on a know your rights campaign on photographing police and public events.

After graduation, he wants to go on to work for a non-profit or political organization. "I wanted to intern for the ACLU this summer because I feel organizations like the ACLU are essential for the democratic process to work."



AMERICAN CIVIL LIBERTIES UNION OF IOWA

80th Birthday Bash

FRIDAY, OCTOBER 2

5:30 p.m.: Substantial Appetizers, Cash Bar, and Birthday Cupcakes

7:00 to 8:00 p.m.: Program and Awards

CELEBRATING 80 YEARS OF DEFENDING CIVIL LIBERTIES

2015 Louis Noun Award Winner Jean Basinger

Edward S. Allen Honorees Dennis Barnum, Mary Garst, and Art Neu *(see page 4)*

2015 Robert Mannheimer Youth Advocacy Award Winner Glori dei Filippone *(see page 6)*

THE WORLD FOOD PRIZE BUILDING

100 Locust Street, Des Moines

Register by mailing the form below or online at www.aclu-ia.org

For parking, handicapped accessibility, and other information, visit our web site or call us at 515-243-3988, ext. 113 or email events@aclu-ia.org.

ACLU of Iowa 80th Birthday Bash

Reservations requested by September 24

You can use this form to pay by check. If you wish to pay with a credit card, please go to www.aclu-ia.org.

We regret that we cannot take credit card reservations over the phone.

Name(s) _____

Address _____

City _____ State _____ Zip _____

Phone _____ Email _____

Please check all those that apply:

- I wish to reserve _____ number of tickets @ \$70 each for a total of \$_____.
- I wish to reserve a table of 8 for \$520, a \$40 savings.
- I cannot attend, but I would like to make a donation of \$_____.

Please enclose a check and mail to:

Birthday Bash/ACLU Foundation of Iowa
505 5th Ave., #901
Des Moines, IA, 50309

For reservation problems or questions:

Email us at events@aclu-ia.org or call us at 515-243-3988, ext. 113.



Marking a Milestone Birthday with Growing Success

The ACLU of Iowa may be turning 80, but we continue to find new and innovative strategies to defend civil liberties in our state.

Summer. It's a time of year when everything slows down just a little bit, and we have time to reflect. Sitting on the porch enjoying some famously delicious local sweet corn, I thought about how fortunate I am to be at the ACLU of Iowa. I couldn't be more pleased, especially at this important point in our affiliate's history.

This fall, we'll mark the ACLU of Iowa's 80th with a Birthday Bash at the beautiful World Food Prize Building in Des Moines. (See details on page 7.) We hope that you will be able to join us!

We have a lot to celebrate. Among many things, the ACLU of Iowa won a major victory against former Secretary of State Matt Schultz on behalf of the League of United Latin American Citizens of Iowa, preventing a purge of the voter rolls.

We also supported Planned Parenthood in its successful effort in the Iowa Supreme

Court, which allows this important organization to continue to dispense medication to rural women via telemedicine for safe and legal abortions.

And at the national level, the ACLU helped secure marriage equality for all Americans—an accomplishment of historic proportions.

We will continue to work for more successes over the next year. In one groundbreaking case, we are challenging the laws that bar Iowans with a felony conviction from voting. We are representing Kelli Jo Griffin, the small-town Iowa mom who was put through the ordeal of a criminal prosecution and trial after she voted, believing her rights had been automatically restored after nonviolent drug conviction years before. We are awaiting a decision from district court.

We are currently doing the hard work of legislative drafting, coalition building, and grassroots advocacy that lays the foundation for significant victories when the session starts.

The Iowa caucuses offer a special opportunity. The ACLU is not a partisan

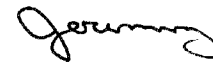
political organization, but during this time we will be working to ensure that our positions get political visibility with candidates.

The ACLU's priorities of protecting immigrants' rights, preserving voting rights, ending mass incarceration, protecting privacy, ensuring reproductive freedom, and securing LGBT equality are the preeminent domestic policy issues of our time. We want to ensure that they are discussed on the campaign trail and that they are on the top of the agenda for our next president.

We haven't always focused on the caucuses before, but with your help, we will do it this year and next. Watch our website and email for ways to help us with this engagement.

And may you all enjoy the last of the lazy hazy crazy days of summer. ■

Best,



*Jeremy Rosen
Executive Director*



*Prizing liberty and maintaining rights
since 1935*

AMERICAN CIVIL LIBERTIES UNION OF IOWA

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