

# Guardians Of Freedom

**T**he American Civil Liberties Union is our nation's guardian of liberty, working daily in courts, legislatures and communities to defend

and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country.

“So long as we have enough people in this country willing to fight for their rights, we'll be called a democracy,” ACLU Founder Roger Baldwin said.

The U.S. Constitution and the Bill of Rights trumpet our aspirations for the kind of society that we want to be. But for much of our history, our nation failed to fulfill the promise of liberty for whole groups of people.



## What the Bill of Rights Guarantees

Your First Amendment rights: freedom of speech, association and assembly. Freedom of the press, and freedom of religion supported by the strict separation of church and state.

Your right to equal protection under the law: equal treatment regardless of race, sex, religion or national origin.

Your right to due process: fair treatment by the government whenever the loss of your liberty or property is at stake.

Your right to privacy: freedom from unwarranted government intrusion into your personal and private affairs.

What was needed was an institution to take seriously those aspirations and fight for them. At the ACLU, we subscribe to the principle that if the rights of society's most vulnerable members are denied, everybody's rights are imperiled.

## Three Things To Know About The ACLU

- We protect American values. In many ways, the ACLU is the nation's most conservative organization. Our job is to conserve America's original civic values - the Constitution and the Bill of Rights - and defend the rights of every man, woman and child in this country.
- We're not anti-anything. The only things we fight are attempts to take away or limit your civil liberties, like your right to practice any religion you want (or none at all); or to decide in private whether or not to have a child; or to speak out - for or against - anything at all; or to be treated with equality and fairness, no matter who you are.
- We're there for you. Rich or poor, straight or gay, black or white or brown, urban or rural, pious or atheist, American-born or foreign-born, able-bodied or living with a disability. Every person in this country should have the same basic rights. And since our founding in 1920, we've been working hard to make sure no one takes them away.



The official count of 1,150,000 at April 2004's March for Women's Lives was the largest crowd ever for a women's rights rally in the nation's capital. Among other important messages, participants told our nation's leaders they should stop intruding on women's access to critical reproductive health services.

*Associated Press*

The U.S. Supreme Court had yet to uphold a single free speech claim when Roger Baldwin, Crystal Eastman, Albert DeSilver and others formed the ACLU in 1920. Activists languished in jail for distributing anti-war literature. State-sanctioned violence against African Americans was routine. Women won the right to vote only in August of that year. Constitutional rights for lesbians and gays, bisexual and transgender people in those days were unthinkable.

So the ACLU was founded to defend and secure these rights and to extend them to people who have been excluded from their protection—Native Americans and other people of color; lesbians, gay men, bisexuals and transgender people; women; mental patients; prisoners; people with disabilities; and the poor.

**“So long as we have enough people in this country willing to fight for their rights, we’ll be called a democracy.”**

**— ACLU Founder Roger Baldwin**

In our first year, we fought the harassment and deportation of immigrants whose activism put them at odds with the authorities. In 1939, we won in the U.S. Supreme Court the right for unions to organize. We stood almost alone in 1942 in denouncing our government's round-up and internment in concentration camps of more than 110,000 Japanese Americans. And at times in our history when frightened civilians have been willing to trade off to the authorities a little of their freedom and rights for a measure of security, the ACLU has been the bulwark for liberty.

At times in our history when frightened civilians have been willing to trade off to the authorities a little of their freedom and rights for a measure of security, the ACLU has been the bulwark for liberty.

We continue to tackle the thorniest issues confronting our nation—racism, sexism, homophobia, religious intolerance, and censorship. The ACLU's mission remains realizing the promise of the Bill of Rights for all and expanding the reach of its guarantees to new areas.

## Some Highlights:

**1920: The Palmer Raids** In its first year, the ACLU fought the campaign of harassment and deportation ordered by U.S. Attorney General A. Mitchell Palmer. The ACLU championed such Palmer targets as politically radical immigrants and supported the right of Industrial Workers of the World members and other trade unionists to hold meetings and organize. The ACLU also secured the release of hundreds of activists imprisoned for their anti-war views and activities.

**1925: The Scopes Case** When biology teacher John T. Scopes was charged with violating a Tennessee ban on the teaching of evolution, the ACLU secured the services of celebrated attorney Clarence Darrow for the defense. Scopes was convicted and fined, but on appeal the Tennessee Supreme Court upheld the statute while reversing Scopes' conviction.

**1933: The Ulysses Case** After a long anti-censorship battle supported by the ACLU, a New York federal court lifted a Customs Service ban on the sale of James Joyce's novel, *Ulysses*, in the United States.

**1939: "Boss" Hague** The ACLU argued successfully before the U.S. Supreme Court that a ban on union organizers' political meetings, imposed by the rabidly anti-labor mayor of Jersey City, Frank "I am the Law" Hague, was unconstitutional. The court ruled that the ban violated the First Amendment right to freedom of assembly.

**1942: Japanese Americans** The ACLU stood almost alone in denouncing the federal government's round-up and internment in concentration camps of more than 110,000 Japanese Americans. In 1993, Congress officially apologized for the action.

**1950: Loyalty Oaths** For a decade, the ACLU fought running court battles against loyalty oaths, which a government gripped by Cold War fever demanded from federal workers. Many state legislatures also passed laws requiring that public schoolteachers, especially, swear their non-membership in the Communist Party or in any "subversive organization."



Japanese American children waiting to be evacuated from their California homes to internment camps.

*-Still Pictures Branch, National Archives and Records Administration*

**1954: School Desegregation** The ACLU joined a legal battle that began years before and would continue far beyond its most celebrated victory: the May 17 Supreme Court decision in *Brown v. Board of Education*, declaring racially segregated schools to be in violation of the Fourteenth Amendment.

**1960: The Civil Rights Movement** From the first lunch counter sit-in through the Freedom Rides and mass marches, the ACLU supported the civil rights movement's goal of racial justice and equal opportunity, and defended on First Amendment grounds its choice of peaceful demonstrations as the principal means for achieving that goal.

**1973: Abortion Decriminalized in *Roe v. Wade* and *Doe v. Bolton*** The Supreme Court held that the constitutional right to privacy encompasses a woman's right to decide whether she will terminate or continue a pregnancy. The ruling struck down all criminal abortion laws in the states. The ACLU remains in the forefront of the struggle to protect women's right to reproductive choice, and to achieve women's equality on all fronts.

**1981: Creationism in Arkansas** The ACLU, 56 years after the Scopes trial, challenged an Arkansas statute requiring that the biblical story of creation be taught as a "scientific alternative" to the theory of evolution. A federal court found the statute, which fundamentalists saw as a model for other states, unconstitutional. "Creation science," said the court, was not science, but was actually religion

and, therefore, could not be required by state law.

1989: Flag Burning The U.S. Supreme Court invalidated a Texas statute punishing flag desecration, which the Justices described as a form of political speech protected by the First Amendment. The House of Representatives then passed an amendment to the Constitution requiring punishment to “protect” the flag. The ACLU fought back, warning Congress that such an amendment would incinerate the very principles for which the flag stands. We prevailed in the Senate.

1996: Gay Rights Milestone In *Romer v. Evans* the Supreme Court recognized for the first time the civil rights of lesbians and gay men by invalidating a state constitutional amendment, passed by public referendum in Colorado, that prohibited the state and its municipalities from enacting gay rights laws.

1997: Internet Free Speech In *ACLU v. Reno*, the court struck down the 1996 Communications Decency Act, which censored the Internet by banning “indecent” speech. Although this was a major First Amendment victory for the information age, the battle continues; the ACLU often finds itself defending online free speech from further assault.

1998: Enforcing the Americans with Disabilities Act In *Bragdon v. Abbott*, the Supreme Court



Crystal Eastman and Roger Baldwin, ACLU Founders.  
*Baldwin: Seeley G. Mudd Manuscript Library, Princeton University*  
*Eastman: Annis Young Collection, courtesy of Blanche W. Cooke*

## The U.S. Supreme Court had yet to uphold a single free speech claim when Roger Baldwin, Crystal Eastman, Albert DeSilver and others formed the ACLU in 1920.

establishes that the anti-discrimination provisions of the Americans with Disabilities Act apply to people in the early stages of HIV infection, even if they did not have any overt symptoms of AIDS.

1998: Broadening Workplace Protection In *Oncale v. Sundowner Offshore Services*, the court ruled Title VII of the Civil Rights Act, which prohibits sexual discrimination and harassment in the workplace, applies to same-sex as well as opposite sex harassment.

1999: Racial Profiling In *Chicago v. Morales*, the court struck down Chicago’s loitering law that disproportionately targeted African American and Latino youth and resulted in the arrest of 45,000 innocent people. The ACLU, with its Campaign Against Racial Profiling, pressured law enforcement officials across the nation to acknowledge the systemic practice of racial profiling. Through lawsuits, literature, and community outreach, the ACLU educated the public on all forms of racial profiling, from “Driving While Black or Brown” to the government making scapegoats of Arabs, Muslims and South Asians in Post 9/11 America.

1999: Rights of the Poor *Saenz v. Roe* Invalidated California’s 12-month residency requirement for

welfare applicants new to the state as a violation of the constitutional right to travel, and reaffirmed the principle that citizens select states; states do not select citizens.

2000: Reproductive Freedom In *Stenberg v. Carhart*, the ACLU filed a friend-of-the-court brief urging the Nebraska Supreme Court to overturn the state's ban on "partial-birth" abortions. The court struck down the ban as unconstitutional, writing that it did not adequately protect women's health and because its broad wording threatened to outlaw many common methods of abortion.



The Supreme Court rejected the Bush administration's effort to carve out in Guantanamo Bay, Cuba an island where laws and due process do not apply to the hundreds of men detained there as terror suspects.

2000: Voting Rights Crisis The U.S. Supreme Court allocated for itself in *Bush v. Gore* an unprecedented role. Tallying votes in Florida for the presidential race had become a debacle, plagued by well-chronicled inaccuracies and inequities. The ACLU, participant in a national campaign to end felony disfranchisement called "Right to Vote", and other civil rights groups filed lawsuits in Florida and elsewhere challenging the reliance on flawed electoral systems that not only failed to count every vote equally, but often operated in a racially discriminatory manner. The ultimate fact of who won the most votes in the state had hung in balance for weeks. Yet the court chose to halt the count and validate the result as it stood.

2000: Separation of Church and State In *Santa Fe Independent School District v. Doe*, the court ruled that a school district policy permitting its student body to vote at the beginning of each school year whether to have prayers before football games violated the Establishment Clause, which prohibits the government from supporting religious beliefs or activities.

2001: Death Penalty In *Atkins v. Virginia*, reversing its 1989 decision, the court ruled that execu-

tion of the mentally retarded is unconstitutional under the Eighth Amendment, which prohibits cruel and unusual punishment.

2001: America Under Attack Terrorists piloted passenger-filled jets into the Pentagon and the World Trade Center. The government responded by rounding up immigrants in new rounds of racial and ethnic profiling and instituted new policies and practices that strike at the heart of what American democracy is all about. The ACLU, with its Keep America Safe and Free campaign, led the resistance, employing lawsuits, testimony in Congress, and direct appeals to citizens who may not realize that their way of life is endangered. The ACLU fought measures to roll back fundamental protections and jeopardize basic freedoms, such as the USA PATRIOT Act that was rushed through Congress to give the government expanded power to invade privacy, imprison people without due process, and punish dissent.

2003: Affirmative Action Upheld In *Grutter v. Bollinger/Gratz v. Bollinger*, the Supreme Court strongly endorsed affirmative action in higher education, ruling that public universities have a compelling interest in creating a diverse student body and that race may be treated as a "plus" fac-

tor in the admissions process. The ACLU, with other leading civil rights groups, supported Michigan University’s use of race in its admissions program and intervened in the case to represent the people most affected by the admissions policy, black and Latino students seeking admission.

2003: Equal Treatment for Lesbians and Gay Men In *Lawrence v. Texas*, the U.S. Supreme Court accepted the ACLU’s argument that it had been wrong when it ruled in *Bowers v. Hardwick* that the right to privacy did not cover lesbian and gay relationships. In striking down a Texas law that made same-sex intimacy a crime, the court expanded the privacy rights of all Americans and promoted the right of lesbians and gay men to equality.

**The U.S. Constitution and the Bill of Rights trumpet our aspirations for the kind of society that we want to be.**

2003: Abortion Under Fire . . . Again Congress passed and the president signed into law the “Partial-Birth Abortion Ban Act of 2003,” the first-ever federal ban on abortion practice. The ACLU, on behalf of the National Abortion Federation and several individual physicians, challenged this ban that would prohibit abortions as early as 13 weeks in pregnancy, abortions that doctors say are safe and among the best to protect women’s health. The ban makes no exception for women’s health or for cases involving severe fetal anomalies.

Recognizing the danger this law poses to women’s health, the U.S. District Court for the Southern District of New York blocked enforcement of the ban as the case proceeds.

2004: Marriage for same-sex couples The year began with same-sex couples marrying in San



Justin McGuire, a fourth-grader at Fullerton Elementary School in Maryland, is in a loving family, with his baby sister Maya and two moms, Kathy McGuire and Whitney Conneally. But, unlike his friends whose families consist of a mom and a dad, Justin’s two moms are not allowed to marry each other.

Francisco, New Paltz and Portland, ensuring debate on this issue across the nation will never be the same. ACLU brought lawsuits in Oregon and New York and joined a case in California to fight for marriage equality for gay men and lesbians. “Then Massachusetts became the first state in U.S. history to allow lesbian and gay couples to legally marry. Hundreds of same-sex marriages took place on May 17, the first day that they were allowed.” This historic day marks the first time that same-sex couples in the U.S. were able to marry without the threat that a court could later invalidate their marriages.

2004: Civil Liberties in Times of National Crisis. Making its most important statement in several decades on the balance between civil liberties and national security, the Court ruled that foreign citizens detained at Guantánamo Bay and American citizens detained as “enemy combatants” in military brigades are entitled to their day in court. The ACLU hailed the historic rulings as a strong repudiation of the government’s argument that its actions in the “war on terror” are beyond the rule of law and unreviewable by American courts.

2004: Holding the Line on International Human Rights. The Court, in *Sosa v. Alvarez-Machain*, ruled that the centuries-old Alien Tort Claims Act allows aliens to sue for damages in federal court for serious violations of broadly accepted human rights norms. Although the opinion did not provide a full list of human rights violations covered by the Act, it is clear from its language torture victims, among others, can claim damages against their torturers in United States courts, even if the torture occurred abroad.

2004: Internet Free Speech Redux. The Court revisited Internet censorship in *Ashcroft v. ACLU*, blocking enforcement of the Child Online Protection Act in an important First Amendment ruling. Adopted by Congress in 1998, the Act criminalizes sexually explicit speech on the Internet that is “harmful to minors,” but does so in a manner that effectively deprives adults of access to constitutionally protected material. “Content-based restrictions, enforced by severe criminal penalties, have the



ACLU founder Arthur Garfield Hays defies Jersey City Mayor Hague’s ban on unsanctioned public speaking, 1938.

*-Still Pictures Branch, Nation Archives and Records Administration*

constant potential to be a repressive force in the lives and thoughts of a free people,” the court said in the opinion.

## Today: Staying the Course

As Americans confront age-old problems of racism, sexism, homophobia, religious intolerance, and censorship of unpopular speech, new threats to civil liberties are emerging. Many of our leaders are responding to a time of great turmoil by creating laws sharply curtailing our rights and invading the privacy of all Americans.

American citizens—without being charged, tried, or given access to a lawyer—are being jailed and called “enemy combatants.”

Immigrants are being targeted and detained without due process. And the Internet, as it blazes unparalleled paths to freedom of expression, also paves the way to new perils for privacy rights. The ACLU’s mission remains realizing the promise of the Bill of Rights for all and expanding the reach of its guarantees to new areas.

## Why We Do What We Do

The ACLU is frequently asked to explain its defense of certain people or groups — particularly controversial and unpopular entities such as the American Nazis, the Ku Klux Klan, and the Nation of Islam. We do not defend them because we agree with them; rather, we defend their right to free expression and free assembly. Historically, the people whose opinions are the most controversial or extreme are the people whose rights are most often threatened. Once the government has the power to violate one person’s rights, it can use that power against everyone. We work to stop the erosion of civil liberties before it’s too late.

Since we can’t take on every worthy case, we usually select lawsuits that will have the greatest impact, cases that have the potential for breaking new ground and establishing new precedents that will strengthen American freedoms.

## And How We Do It

We have grown from that roomful of civil libertarians to more than 400,000 members. The ACLU today is the nation’s largest public interest law firm, with a 50-state network of staffed, autonomous affiliate offices. We appear before the United States Supreme Court more than any other organization except the U.S. Department of Justice. About 100 ACLU staff attorneys collaborate with about 2,000 volunteer attorneys in handling close to 6,000 cases annually.

The ACLU is non-profit and non-partisan. We do not receive any government funding. Member dues and contributions and grants from private foundations and individuals pay for the work we do. The ACLU, with headquarters in New York City, litigates across the nation and all the way to the U.S. Supreme Court. Our Washington, D.C., legislative office lobbies the U.S. Congress. We use strategic communications to educate the public about issues. And the ACLU has expanded its reach by applying international human rights standards in our complex Post 9/11 world. A number of national projects address specific civil liberties issues: AIDS, capital punishment, lesbian and gay rights, immigrants’ rights, prisoners’ rights, reproductive freedom, voting rights, women’s rights and workplace rights.



Associate Justice Ruth Bader Ginsburg

If you believe your civil liberties have been violated, or if you wish to join the ACLU, contact your local ACLU affiliate from the listing in the telephone directory, or write to the national headquarters, Attention: Membership Department. You may also contact and join the ACLU on the Internet ([www.aclu.org](http://www.aclu.org)). Briefing papers, each on a different civil liberties issue, and other publications and information are available from the Communications Department of the ACLU’s national office in New York.



125 Broad Street, 18<sup>th</sup> Floor  
 New York, NY 10004-2400  
 (212) 549-2500  
[www.aclu.org](http://www.aclu.org)

**President**  
 Nadine Strossen

**Executive Director**  
 Anthony D. Romero

## Local Contact Information: