



# ANNUAL REPORT 2016-17



# President's Remarks

Just a few days after the November election, the ACLU of Vermont convened its annual membership meeting in Montpelier. There was a palpable feeling of anxiety in the room, reflecting the obvious concerns of many civil libertarians that the campaign pledges of the president-elect, if enacted, would be flagrantly unconstitutional and thoroughly un-American.

Fast forward a few months and many of those threats have come to pass, in the form of executive orders, cabinet appointments, and other administrative actions totally at odds with who we are as a people and as a country.

But the ACLU has responded forcefully to those initiatives and will remain at the frontlines of the fight to preserve our system of laws, our rights, and our democracy. As we rise to meet the challenges of 2017, we have added capacity to ensure that we succeed in those efforts.

We've increased the number of staff, all of whom are doing remarkable work. With two full-time staff attorneys, a policy director, and a community organizer

coming on board, we now have more skilled advocates on staff than at any point in our 50-year history. We also have an excellent Board, and a rapidly growing base of members and supporters.

And although we were sorry to see Allen Gilbert retire, James Lyall - our new Executive Director - is well prepared to lead the organization into a new era at this critical time. I want to especially thank the Search Committee\* for its outstanding work in conducting a national search for candidates to fill the position.

So even though we face daunting challenges ahead, I remain confident that through the hard work of our staff, our Board, and our members and supporters, we will emerge stronger than ever before.

\*Search Committee members were Euan Bear, Ana Hernández, Julie Kalish, Bill Schubart, Abe Sender, John Shullenberger, Virginia Simmon, and, of course, Allen Gilbert and Andrea Warnke.



**Jim Morse**  
**BOARD PRESIDENT**



# Executive Director's Letter

The ACLU of Vermont was voted into existence by its members on March 25, 1967. This year marks our 50th anniversary, and though we'll be taking some time to reflect on a remarkable record in defense of civil liberties in Vermont, now is not the time to rest on our laurels.

At the national level, we face the gravest threats to individual rights and to our very system of government, far beyond anything we've seen before. And, as far as Vermont has come over the past five decades, there's no question that we still have a lot of work to do: on racial justice, on police accountability, on government ethics, and on the rights and protections afforded to the most vulnerable among us.

For all the shocks and setbacks of the past year, the ACLU of Vermont enjoyed several important victories in 2016 and 2017. In the courts, we settled lawsuits defending immigrant rights and public access to government records. At the legislature, we helped win passage of criminal justice reforms and privacy legislation reining in government use of drones, license plate readers, and other surveillance technologies.

But maybe the most significant development was the unprecedented expansion of our membership. After more than tripling in size in the three months following the election, the ACLU of Vermont is now 7,500 members strong, with 1.6 million members nationwide.

It's that kind of people power that has always made the ACLU an unstoppable force for change. This year and beyond, we'll be working to harness that energy and mobilize our supporters to defend civil rights whenever they come under attack.

Make no mistake, we have a huge fight ahead. But if there's one thing the ACLU of Vermont's first five decades have shown, it's that when it comes to civil rights, we know how to win. Thank you to all of our supporters for making those victories possible for 50 years, and counting.



**James Lyall**  
**EXECUTIVE DIRECTOR**



# DEFENDING THE RULE OF LAW

The ACLU and its members – now 1.6 million strong nationwide – have launched an all-hands-on-deck effort to resist the Trump agenda, defend the Constitution, and protect the rights it guarantees to all people within our borders. The ACLU will remain on the frontlines, defending individual rights and the rule of law whenever they come under attack.

# We'll See You In Court - And In The Streets

Before Trump took office, the ACLU released a Seven-Point Plan laying out how the ACLU intends to challenge other Trump policies and protect the Constitution.

## The Plan:

1. Demand government accountability and transparency
2. Protect the rights of immigrants
3. Defend reproductive rights
4. Protect First Amendment rights
5. Defend LGBT rights
6. Defend core civil rights and civil liberties from erosion
7. Mobilize the American people

On day one of Trump's presidency, the ACLU initiated a FOIA lawsuit to uncover potential conflicts of interest posed by the president's business interests. We then joined millions of peaceful demonstrators who marched for justice and equality at Women's Marches across the country.





# No Ban, No Wall, No Raids,

When Trump moved to ban people from seven predominantly Muslim countries from entering the United States, the ACLU and other organizations sprang into action and won multiple, nationwide injunctions as spontaneous protests erupted at airports across the country.

The ACLU of Vermont joined other ACLU affiliates in demanding records from U.S. Customs and Border Protection to expose how officials implemented the president's Muslim ban.

With Vermont's immigrant communities under attack, the ACLU is fighting for increased legal protections and working to prevent local law enforcement agencies from getting entangled in Trump's policy of mass deportation.

“THE ACLU STANDS READY TO TURN BACK ANY EFFORTS BY THE TRUMP ADMINISTRATION TO BYPASS THE CONSTITUTION OR VIOLATE CIVIL RIGHTS.”

**– ACLU OF VT EXECUTIVE DIRECTOR JAMES LYALL**

# People Power

The ACLU is first and foremost a membership organization. Since its inception its strength and impact have been driven by the passion and conviction of the dedicated civil libertarians that stand up and speak out as ACLU members.

In response to Trump's discriminatory agenda, membership in the ACLU has surged. After tripling in size in the three months following the election, the ACLU of Vermont is now 7,500 members strong, with 1.6 million members nationwide.

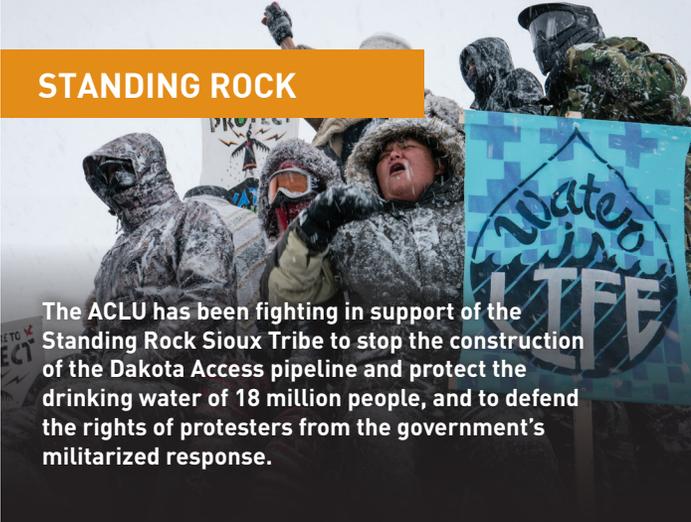
WE NEED TO BE CHALLENGING UNCONSTITUTIONAL ACTIONS AT EVERY LEVEL, IN EVERY BRANCH OF GOVERNMENT, AND IN THE STREETS."

– ACLU OF VT EXECUTIVE DIRECTOR JAMES LYALL

In response to the growing number of people who believe that Trump's actions cannot go unchallenged, the ACLU of Vermont is hiring our first-ever Community Organizer. The organizer will mobilize ACLU supporters statewide to defend civil liberties and advance the ACLU's policy agenda at the local, state, and federal levels.

In addition, the ACLU has launched a major new grassroots mobilization platform, PeoplePower.org, to support our members in resisting Trump's agenda not only in the courts, but also in the streets and in their communities.

## STANDING ROCK

A photograph showing several protesters at the Standing Rock pipeline protest. They are wearing heavy winter gear, including hoods and goggles. One person in the foreground is shouting with their mouth open. A blue sign with a water drop graphic and the words "Water is LIFE" is visible on the right. The background shows a snowy, overcast sky and some protest signs.

The ACLU has been fighting in support of the Standing Rock Sioux Tribe to stop the construction of the Dakota Access pipeline and protect the drinking water of 18 million people, and to defend the rights of protesters from the government's militarized response.

## STAND WITH GAVIN

A photograph showing a group of people at a protest. In the foreground, a man with a beard and a baseball cap is looking towards the camera. Behind him, other people are visible, some holding signs. A large black sign with white text reads "TRANS PEOPLE UNDER ATTACK" and another sign partially visible says "WE'VE GOT YOUR BACK".

The ACLU's work to protect transgender students like ACLU client Gavin Grimm took on a new urgency when the Trump administration rescinded guidance that had affirmed transgender students' rights under Title IX, the federal law that bars gender discrimination. As Gavin's historic lawsuit continues to wind its way through the courts, the ACLU will keep fighting to defend the rights of courageous students like Gavin and all transgender people to live free from discrimination.

# A YEAR IN REVIEW: ACLU OF VERMONT

2016

**MAY 2016:** ACLU of VT helps defeat legislation that would have allowed police to conduct warrantless searches of drivers' cell phones and another bill authorizing police to test drivers' saliva for drug use.

**JUNE 1:** Following ACLU of VT testimony, raise the age legislation is signed, revising delinquency laws for the first time in a generation to ensure fairer treatment for juveniles in the criminal justice system.

**JUNE 6:** Omnibus privacy bill that grew out of the ACLU of VT's "Surveillance on the Northern Border" report is signed into law.

**JULY 25:** Allen Gilbert retires after 12 years as ACLU of VT executive director. James Duff Lyall joins ACLU of VT as the 12th executive director in the organization's 50-year history.

**JULY 8:** ACLU of VT files suit challenging Bennington police department's racial profiling and unlawful search of Shamel Alexander.

**SEPTEMBER 2:** ACLU of VT files a lawsuit on behalf of a Burlington man evicted from his apartment on the basis of having requested police assistance on multiple occasions.

**AUGUST 30:** ACLU of VT and Vermont Human Rights Commission settle case with the Vermont DMV on behalf of a Jordanian man who was turned over to federal immigration agents by DMV officials in June 2014.

**OCTOBER 24:** ACLU of VT files a "friend of the court" brief with the Vermont Supreme Court in the case of William Schenk arguing that government cannot criminalize speech based on its content alone.

**NOVEMBER 8:** Donald Trump elected president. Over the next 3 months, ACLU of VT membership triples in size. National ACLU membership now 1.6 million strong.

# 2017

**JANUARY 19, 2017:** ACLU sues Trump administration to obtain documents on conflicts of interest and violations of the Constitution and federal law posed by the president's business interests.

**JANUARY 28:** ACLU and affiliates win multiple, nationwide injunctions barring the Trump administration from removing refugees and permanent residents detained at airports around the country.

**JANUARY 21:** The ACLU joins hundreds of thousands of peaceful protesters at Women's Marches in Vermont and across the country to express opposition to Trump's extreme and discriminatory agenda.

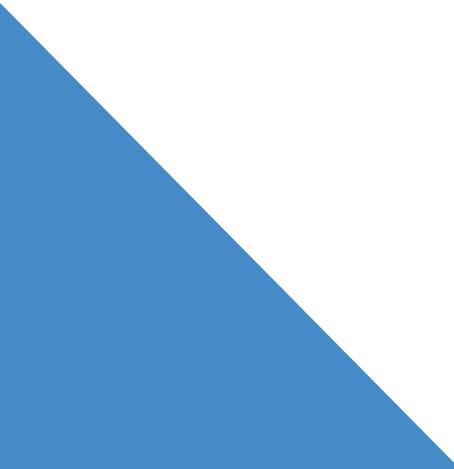
**FEBRUARY 2:** ACLU of VT files FOIA request to shed light on travel ban implementation as part of coordinated effort by 50 ACLU affiliates across the country.

**FEBRUARY 9:** ACLU of VT settles VTDigger's public records lawsuit after state releases EB5 records.

**MARCH 11:** ACLU launches People Power, a new, nationwide grassroots organizing platform to mobilize supporters in defense of civil rights.

**MARCH 25** ACLU of VT marks 50 years since its founding. Membership vote established Vermont affiliate on March 25, 2017.

**APRIL 3:** Chloé White starts as ACLU of VT's first full-time policy director. ACLU of VT prepares to hire first Community Organizer to further enhance policy advocacy and increase public engagement.



# **FIGHTING FOR ALL VERMONTERS**

# Criminal Justice

America's criminal justice system is in crisis: an absence of meaningful police oversight and accountability; glaring racial disparities, compounded by the failed war on drugs; the growing criminalization of poverty through excessive bail, fines, and fees; and, an epidemic of mass incarceration—now 2.3 million prisoners nationwide.

Vermont is not immune to any of these problems. For example, a growing body of data shows people of color in Vermont are stopped, cited, and searched by police at a much higher rate than white drivers. An ACLU report showed that African-Americans in Vermont are arrested for marijuana at 4 times the rate of whites statewide; in Rutland, African Americans are 16.8 times more likely to be arrested for marijuana possession than whites. The same disparities persist in Vermont's prisons, where African Americans are incarcerated at more than 10 times the rate of white people—that's the highest rate in the country.

In addition, Vermont's bloated prison system houses elderly inmates, inmates with disabilities, and hundreds of people awaiting trial on nonviolent offenses. Hundreds are sent to out-of-state prisons run by for-profit corporations.

It doesn't have to be this way. The ACLU is confident that with commonsense reforms—a fair and consistent bail system, greater emphasis on mental health and drug treatment, and better opportunities for reintegration post-conviction—we can cut our prison population significantly, save taxpayer money, and create safer, healthier communities.



## CASE STUDY:

### Challenging Discriminatory Police Practices

The ACLU of Vermont has multiple pending legal challenges to discriminatory police practices. In 2016, we filed suit on behalf of Shamel Alexander, who Bennington police stopped, questioned and searched without any lawful basis. The ACLU of Vermont is still litigating the case of Greg Zullo, who was stopped by state police in 2014, then left stranded on the side of the road eight miles from his home in Rutland—all because a state trooper said he smelled marijuana but otherwise had no evidence of a crime. In August, the ACLU settled a case on behalf of an immigrant who was unlawfully detained and turned over to federal immigration agents by DMV officials.

Recent studies confirm what people of color in Vermont have known for a long time: biased policing is real. That's why, in addition to litigation, the ACLU supports legislation to create a racial justice oversight board to ensure that Vermont's laws are applied fairly and impartially to all residents.

# Privacy & Surveillance

Today, new and emerging technologies are outpacing the privacy protections on which we have long relied. We've seen the explosion of government surveillance programs and technologies capable of sweeping up data about the most intimate aspects of our lives: our whereabouts and our communications, the websites we visit and what we buy, information about our health and our bodies, and more.

That's why the ACLU of Vermont is working to rein in runaway surveillance and ensure that the laws that protect our privacy keep pace with modern life. The privacy legislation we helped pass in 2016 was an important step, but there is still more work to be done.

For example, an ACLU report described a previously undisclosed program through which state DMVs are sharing millions of Americans' photographs with the FBI. These practices fly in the face of Vermont laws restricting the collection and distribution of Vermonters' biometric information.

As technology's role in our lives grows, the ACLU of Vermont is educating the next generation of civil libertarians and stepping up its defense of Americans' right to privacy.



## ACLU Scores Big Win for Privacy

After three years of persistent advocacy by the ACLU of Vermont, building on the findings in our report "Surveillance on the Northern Border," the General Assembly passed an omnibus privacy bill (S. 155) on the final day of the legislative session. It was a big win for Vermonters' privacy, and the first broad privacy protection bill ever passed by the Vermont legislature.

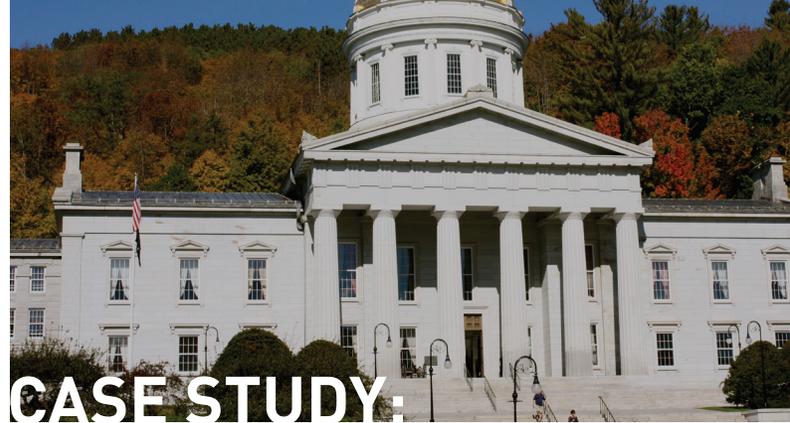
The legislation aimed specifically at privacy threats created by new digital technologies. Under S. 155, new warrant protections will be put in place for law enforcement use of drones. Access to the state's massive automated license plate recognition (ALPR) database is restricted. The legislation also spells out how the privacy of electronic communications such as e-mails and web searches will be protected, and restricts police use of "stingray" location tracking devices.

# Open Government

The ACLU of Vermont recognizes that a truly participatory democracy requires real transparency. In the courts, the capitol, and communities across the state, we are fighting to ensure the state and local officials who represent the people of Vermont are held to the highest standards.

Through strategic litigation, the ACLU of Vermont is challenging local officials' efforts to keep the public in the dark. We initiated multiple public records actions and joined the Vermont Journalism Trust in successfully challenging the state's withholding of public records related to the EB-5 program.

In the statehouse, we're pushing for legislative reforms, including stronger conflict of interest laws, the creation of an ethics commission, and improvements to Vermont's public records law, under which government agencies—including schools, police, and regulators—all too often withhold essential information from the public simply because they can.



## **Vermont Journalism Trust v. State: Defending the Public's Right to Know**

When the State of Vermont tried to claim an exemption from public records laws for documents relating to its oversight of the EB-5 program amid allegations of fraud, the ACLU of Vermont went to court - joining the Vermont Journalism Trust in defending the public's right to know. In that case, we represented the news organization VTDigger, whose request for EB-5 oversight-related records was denied without valid justification.

The lawsuit led to the State of Vermont releasing a cache of public records related to the state's participation in the EB-5 program, which allows foreign entrepreneurs who make specified financial investments in the United States to apply for lawful permanent resident status.

# Vulnerable Populations

The ACLU of Vermont has long championed the rights of the most vulnerable among us—children, low-income families, homeless individuals, people with disabilities, prisoners, and immigrants, and other people for whom the promise of the Bill of Rights is too often denied.

In the year ahead, the ACLU will continue to focus on ensuring that the legal protections we have won translate into the lives of all Vermonters:

- We work to ensure schoolchildren are afforded equal opportunity, regardless of income, background, or disability.
- We defend the rights of undocumented immigrants, prisoners, and others whose voices need and deserve to be heard.
- We fight laws and policies that criminalize poverty such as excessive fines and court fees, local anti-panhandling ordinances, and unfair evictions.

## CASE STUDY:

### **Montagno vs. City of Burlington: No one should be punished for asking for help**

In August 2016, the ACLU of Vermont filed a lawsuit on behalf of a Burlington man who was evicted from his apartment solely on the basis of having requested police assistance “too frequently.” Our client, Joseph Montagno, is a lifelong Vermonter who has long struggled with unemployment and homelessness. After finding steady work and stabilizing his life, however, Mr. Montagno still faced difficulties at his low-income apartment complex in Burlington, where he and other tenants repeatedly called the police to report crimes and request assistance.

Rather than help him, police started tracking the number of calls from Mr. Montagno, classifying him as a “frequent caller” and a public nuisance. Then, without notifying him, officials contacted Mr. Montagno’s landlord and threatened that unless remedial action was taken, the landlord’s occupancy certificate would be revoked. Predictably, the landlord evicted Mr. Montagno, who is again faced with the threat of homelessness.

No one should be punished for asking for help. That’s why we sued the city on Mr. Montagno’s behalf, alleging violations of our client’s rights under the First and Fourteenth Amendments, and anti-discrimination laws.

**We extend our sincerest gratitude to our members, donors, and volunteers. You are the ACLU - every legal action, every bill we help make into law (or stop in its tracks), every individual empowered to stand up for their rights and the rights of others. Your commitment to freedom matters and your support makes a difference.**

**Thank you.**



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## OUR STAFF

**James Duff Lyall,**  
Executive Director

**Andrea Warnke,**  
Associate Director

**Kate Connizzo,**  
Director of  
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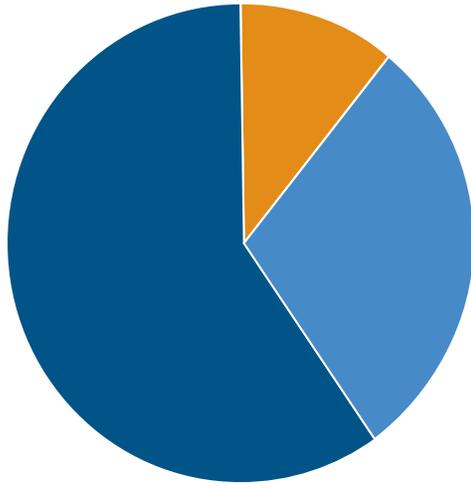
**Chloé White,**  
Policy Director

**Lia Ernst,** Staff  
Attorney

**Jay Diaz,** Staff  
Attorney



# Financials



- Donations & Grants
- Bequests
- VT-share, Natl revenues

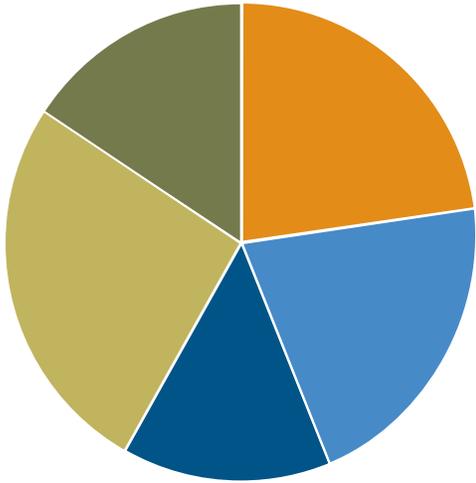
## FY 16 SUPPORT & REVENUES

|                          |                  |
|--------------------------|------------------|
| Donations & grants:      | \$55,650         |
| Bequests:                | \$153,199        |
| VT-share, Natl revenues: | \$306,838        |
| <b>TOTAL:</b>            | <b>\$515,687</b> |

The ACLU of Vermont's strategic advocacy is made possible by the generous support of its donors and members, and driven by the dedicated work of Board members, staff, and volunteers. The ACLU of Vermont receives no government funding. We depend entirely upon individual tax-deductible gifts, bequests, grants, membership dues, periodic court-awarded legal fees, and support from the national ACLU.

The ACLU of Vermont is a non-partisan, non-profit membership

organization headquartered in Montpelier and serving Vermonters across the state. We are an affiliate of the national ACLU and are independently directed by a statewide Board. The organization is comprised of the ACLU Foundation of Vermont, a 501(c)(3) tax-deductible organization that conducts our legal, advocacy, and education activities, and the ACLU of Vermont, a 501(c)(4) organization that conducts membership outreach and legislative lobbying. Gifts to the Foundation are tax-deductible.



- Legal
- Public Education
- Legislative
- Management & General
- Fundraising

**FY 16 EXPENSES**

|                                  |                  |
|----------------------------------|------------------|
| Legal:                           | \$99,830         |
| Public Education:                | \$92,196         |
| Legislative                      | \$62,674         |
| Management & General (or admin): | \$115,763        |
| Fundraising;                     | \$67,983         |
| <b>TOTAL:</b>                    | <b>\$438,446</b> |

\*Combined ACLU and ACLUF figures shown are based on FY16 audited financial statements prepared by outside independent auditors. We have adjusted some revenue/expense figures netting to zero in order to show net/gross sharing consistently.

# Farewell

In July 2016, after 12 years as ACLU of Vermont's executive director, Allen Gilbert retired.

During his tenure, Allen represented the ACLU at the State House over seven biennia, oversaw more than four dozen legal actions, and spoke to countless schools and organizations. During that time, the ACLU of Vermont took on everything from police misconduct, criminal justice reform, and digital privacy, to students' rights, religious freedom, and open government.

Notable court wins during his tenure included the student free speech case *Guiles v. Marineau*; *Linsley v. Wildflower Inn*, which tackled discrimination in public accommodations based on sexual orientation; and *Hackett v. Town of Franklin*, which found that opening Franklin's town meeting with a Christian prayer violated the Vermont Constitution.

After more than a decade of service, Allen leaves behind an ACLU affiliate that is strong, influential statewide, and prepared to hold government accountable. We are deeply grateful for his service and wish him all the best.



**Allen Gilbert**

# Thank You

The ACLU of Vermont wishes to thank the many individuals who made financial contributions to support our work in 2016, and in particular those who donated to the Allen Gilbert Liberty Circle in honor of Allen's retirement:

Anonymous

Linda & David Abbott

Robert Appel

Richard and Joanne Axelrod

Beal B. Hyde Charitable Trust

Eileen Blackwood & Lynn

Goyette

Barry & Bonnie Chouinard

David Clark & David Colman

Richard Cowart

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# Get Involved

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**Become** a Guardian of Liberty by setting up a monthly, recurring donation to the ACLU at [www.aclu.org/GoL](http://www.aclu.org/GoL).

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**Join** People Power, the ACLU's grassroots member-mobilization project at [www.peoplepower.org](http://www.peoplepower.org).

**Volunteer** your time and expertise in defense of civil liberties. Contact us at [info@acluvt.org](mailto:info@acluvt.org) to learn more.

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