



THE TIPPING POINT

2021 - 2022
// ANNUAL REPORT

ACLU
Kentucky



A NOTE FROM LEADERSHIP

Kentuckians rallied for abortion access after the United States Supreme Court overturned *Roe* and *Casey*, allowing absolute bans to take effect.

■ Each year brings new and complex challenges and 2022 was no different. Your support fuels our fights to protect and expand civil rights and liberties at the courthouse, statehouse, and ballot box.

Our legal team was hard at work in state and federal courts defending the constitutional rights of protesters, incarcerated people, LGBTQ people, and people of faith. The most visible legal work focused on restoring abortion rights after the US Supreme Court overturned *Roe v. Wade*, allowing Kentucky's abortion ban to take effect, blocking care from the moment of conception without exceptions for rape or incest.

Kentuckians incarcerated in Louisville – nearly 75% of whom are detained pre-trial because they cannot afford bail and have *not* been convicted of a crime – face deplorable and deadly conditions in the city's correctional facilities. Staff across departments worked with partners and formed a coalition to

address the root causes of these deadly conditions and demand practical, urgent changes from city leaders. With your support, we will continue this work because wealth should never determine a person's freedom and detention should never equal a death sentence.

In Frankfort, lawmakers presented a host of new attacks on reproductive freedom, LGBTQ equality, and freedom of speech. We were unable to stop all attacks, but altered or stopped some of the most egregious bills. We also advanced positive and proactive legislation, such as postpartum coverage for people enrolled in Medicaid and the CROWN Act, which would protect Kentuckians from race-based hair discrimination at work and school.

This past year we also renewed our dedication to our work at the ballot box because democracy only works when we all work for democracy and when every voice is heard.

The ACLU of Kentucky remains a nonpartisan organization focused on policy, not party, and will never endorse candidates or parties. However, there remains a significant amount of electoral work to inform and mobilize voters, as well as to protect and expand this fundamental right.

First, we launched our Reclaim Campaign to engage the 175,000 Kentuckians whose voting rights were restored by Governor Beshear. We made sure they heard the good news and were empowered to register to vote and make their voices heard.

Second, judges play a critical role in reforming our broken criminal legal system, protecting abortion access, and more. So, we created our first-ever judicial election guide so voters could learn about the candidates and make informed decisions. We surveyed 123 candidates in 11 counties and reached over 20,000 voters. While we started small, we plan to expand this project.

This year and every year, our staff puts in long hours during the legislative session, in and out of courtrooms, meeting with volunteers and donors, and responding to crises. Additionally, every team has committed to centering equity, diversity, inclusion, and belonging in their work. We are so appreciative of our dedicated staff.

We could not do this work without you by our side. To our partners, donors, volunteers, and all others who support our mission to preserve liberty – thank you. Thank you for being part of the fight for a more just and equitable commonwealth for all.

Yours in Solidarity,

Amber Duke, Interim Executive Director

Omar Salinas-Chacón, Board President



WHAT YOUR SUPPORT MEANS

The ACLU of Kentucky's funding comes from a variety of sources. We receive support from national ACLU, grants from nationwide foundations, and, **most importantly, statewide support from nearly 5,000 members and donors.**

Grant funding is almost always directed to specific programming and can only be used for expenses related to those programs. The bulk of our work, however, is responding to the immediate needs of the commonwealth. We never know what attacks on civil rights and liberties are next, but we must always be prepared.

If this year has taught us anything, it is that as prepared as we may be, there will always be unexpected work.

Unrestricted funding – or funds that are not tied to a specific project and used only for that project – allows us to pivot, giving our team the necessary resources to address emergency issues as they arise.

This report covers ACLU-KY Fiscal Year 2022, which is April 2021 through March 2022. Visit [ACLU-KY.org](https://www.aclu-ky.org) and follow [@ACLUofKY](https://twitter.com/ACLUofKY) to stay up to date and get involved.

OUR WORK IN THE COURTHOUSE



ACLU Reproductive Freedom Project Senior Staff Attorney Alexa Kolbi-Molinas argued before the Supreme Court of the United States.

■ FY2022 Cases **Protecting Confidential Legal Mail in Kentucky Prisons**

For nearly 50 years, the Kentucky Department of Corrections (DOC) opened privileged legal mail in the presence of the recipient, inspected it for contraband only, and delivered it to the recipient.

Despite a long-running and appropriate process, officials violated incarcerated Kentuckians' right to legal counsel. Without formally changing any policy, several facilities in 2020 began confiscating all incoming legal mail, photocopying it, and then delivering only the photocopy to the recipient. Photocopies were often incomplete and the original mail was often not secured, meaning other people could read this confidential mail.

Alongside the Kentucky Department of Public Advocacy, we filed a lawsuit in state court arguing this practice violated the First and Fourteenth Amendments of the United States Constitution, as well as several Kentucky statutes.

Our court challenge brought DOC to the table and we successfully negotiated a settlement requiring DOC to create new processing procedures that protect confidential legal mail. We are monitoring their work to ensure DOC complies with the agreement's terms.

[Read more about this case at ACLU-KY.org/LegalMail](#)

■ FY2022 Cases **Defending the Right to Peacefully Protest**

Protests erupted across the globe in 2020, including marches that drew thousands of demonstrators in Louisville demanding justice for Breonna Taylor and an end to police violence against Black and Brown

people. Louisville Metro Police Department (LMPD) responded to these peaceful demonstrations with excessive, militaristic force, meeting protesters with tear gas, pepper balls, and flash-bang grenades.

We filed a federal lawsuit in 2020 seeking substantive policy changes to prevent LMPD's excessive use of force from ever happening again. Our legal team has spent months reviewing discovery materials and thousands of hours of body-worn camera footage to create a record of LMPD's militaristic response.

Instead of protecting First Amendment rights and upholding its oath to protect and serve, LMPD targeted peaceful protesters and journalists. We hope LMPD will agree to implement new policies so we can settle this case soon.

[Read more at ACLU-KY.org/LMPDLawsuit](#)

■ FY2022 Cases **Restoring and Protecting Abortion Access**

In March 2021, the Supreme Court of the United States agreed to hear arguments concerning a very narrow question in our case against a 2018 Kentucky law that would have banned a standard and safe abortion care procedure known as "D&E." If enforced, this law would have effectively implemented a 14-week ban.

Attorney General Cameron attempted to revive this case – a case we had already won twice – after he was elected and once the courts grew more hostile to abortion access. The Supreme Court heard oral arguments in October 2021 to consider whether Cameron could revive this twice-settled case.

Unfortunately, in March 2022, the Supreme Court

Continued on page 7



ACLU-KY Staff Attorney Heather Gatnarek speaks with reporters after arguing before the Supreme Court of Kentucky.

ruled the Sixth Circuit for the United States Court of Appeals was wrong to deny Cameron’s motion to intervene and brought this case back.

Following the Supreme Court’s opinion, the case went back to the Sixth Circuit. However, when the Supreme Court overturned *Roe* and *Casey* in this year’s *Dobbs* opinion, we asked the Sixth Circuit to dismiss this case because *Dobbs* upended the nearly 50-year precedent on which it relied.

Read more about this case at [ACLU-KY.org/DandEScotus](https://www.aclu-ky.org/DandEScotus)

■ FY2022 Other Legal Work

Our legal team also penned several letters informing public officials of their constitutional obligations and demanding they uphold them:

- During the height of the pandemic, we demanded school districts implement universal masking to ensure safe and equal access to all students, as required by the Americans with Disabilities Act. Many leaders thanked us for outlining these concerns and took swift action.
- The Kentucky State Fair Board removed a pro-choice billboard paid for by the Kentucky Religious Coalition for Reproductive Choice, claiming it contained “objectionable” content. But because the Fair Board is a state agency, it must comply with the First Amendment. We successfully demanded the Fair Board change its advertising policy at the Kentucky Fair and Exposition Center to uphold the First Amendment.

Judicial Election Guide

In 2022, we launched our first-ever Judicial Election Guide to help voters learn more about the judges running for seats from Kentucky’s lowest courts to the state Supreme Court.

Judicial races often go unnoticed, but judges have the power to reduce incarceration rates, help people seek treatment for substance use disorder, keep children out of adult prisons, protect abortion access (following the fall of *Roe*), and more.

We surveyed 123 candidates in 11 counties and reached over 20,000 voters. We started small this year since it was our first time conducting a candidate survey and creating a guide, but we plan to build on this success and expand the project to include more counties in the future.

THIS YEAR BY THE NUMBERS



ACLU-KY Policy Strategist Kungu Njuguna speaks alongside community members at a press conference to demand specific and urgent changes in Louisville's deadly jails.

4,911 Members and donors

Litigation documents prepared and/or filed **95**

17 Staff

Legal intake requests answered **293**

91 Events

Demand letters and open records requests **10**

61 Speaking engagements

Meetings between directly impacted people and legislators **69**

1,358 Volunteers

Bills tracked during the 2022 Kentucky General Assembly **273**

21,750 Miles traveled by ACLU-KY staff

Emails to lawmakers from members and supporters **5,300**

310,644 texts sent by over 50 volunteers encouraging other Kentuckians to take action

OUR WORK **IN THE STATEHOUSE**



ACLU-KY super-volunteer Cedar, age 6, celebrates pride in the Capitol rotunda.

■ Our Work in the Legislature

Every member of our staff contributes to our legislative work throughout the year. During the General Assembly, our policy strategists, organizers, interns, and volunteers work tirelessly to meet with legislators, arrange testimony, connect people with lawmakers to share their stories, and so much more.

The advocacy team is deeply involved with bills from the drafting phase to the governor's desk. They work daily at the Capitol during the annual legislative session to lobby against harmful bills and garner support for bills that protect and expand civil rights and liberties. The legal team works with them to analyze legislation and prepare for litigation if we believe a new law may be unconstitutional.

The communications and development teams keep our members, supporters, and donors informed of what's happening in the legislature, how it affects their lives, and how they can get involved. The communications team also works closely with dozens of reporters.

In 2022, our policy issues included:

LGBTQ equality. Opposing bills attacking trans youth and supporting a ban on the torturous practice of conversion therapy on minors.

Reproductive freedom. Opposing abortion bans, advocating for comprehensive sex education, and promoting paid family leave for all Kentuckians.

Criminal legal reform. Supporting legislation to remove the felony disclosure requirements in hiring, advocating for the abolition of the death penalty, and supporting policies that prioritize rehabilitation over criminal punishment.

Racial justice. Legalizing marijuana to end the failed, racist, war on drugs, expanding expungement

for certain Class D felonies, permanently restoring voting rights to people with felonies in their past, and protecting people from race-based hair discrimination in school and at work.

Reimagining the role of police in public safety.

Opposing DNA collection at the time of felony arrest, protecting the right to protest, increasing civilian oversight of police, and more.

■ Our Work at the Ballot Box

Over the last year, we have deepened our election work by engaging Kentuckians whose voting rights were restored, turning out voters, and partnering with Election Protection. This nonpartisan effort reached Kentuckians who don't always make it to the polls and emphasized the importance of voting in protecting our rights.

Restoration of voting rights. This campaign included voter education and direct outreach to the 175,000 people whose voting rights were restored by Governor Beshear's 2019 executive order. The campaign included events throughout the commonwealth, text banks, and direct mail.

Stopping Amendment 2. We joined partners to run a coalition campaign called Protect Kentucky Access. Together, we mobilized voters to defeat Amendment 2, a ballot measure that would have altered the Kentucky Constitution to state there is no right to an abortion in the commonwealth.

Election Protection. We continued our partnership with Election Protection to give voters a clear method of reporting voting issues at the ballot box. This allowed us to directly engage with voters and coordinate legal strategies with other organizations to rapidly respond to potential voting issues.

2022 IN PARTNERSHIP



Grand opening of Black Birth Justice in Shively in Louisville.

■ Crisis in Louisville Jails

When the government chooses to incarcerate a person, it also takes on the responsibility of ensuring their health and safety. No Kentuckian should ever die in the care of their government – but that’s exactly what is happening in Louisville’s jail.

Death rates within Louisville Metro Department of Corrections (LMDC) far exceed jail deaths nationally, including in entire statewide systems. As of this writing, 13 people have died in 12 months. 12 of them were detained pre-trial, meaning they were still presumed innocent and incarcerated only because they could not afford to pay bail and purchase freedom.

In response, we partnered with 20+ organizations and leaders to improve conditions. Together, we have made clear and practical demands of city leaders, judges, and prosecutors. This crisis is far from over, but we marked several successes this year:

- Expanded the conversation about wealth-based cash bail policies. Nearly 75% of those detained in Louisville are incarcerated simply because they cannot afford to purchase their freedom.
- Attained four seats reserved for advocates on the Jail Policy Committee.
- Persuaded the county attorney to create an amnesty period that allowed people with outstanding bench warrants to clear or redocket their case with no threat of arrest.
- Raised \$300,000 to pay restitution for people who qualified for amnesty but could not afford to pay fees and/or restitution.
- Convinced city leaders to deprioritize spending \$400M on a new jail. We will keep up the pressure until they fully commit to no new jail.

Read more about this at [ACLU-KY.org/LMDC](https://aclu-ky.org/LMDC)

■ Defeating Amendment 2

When *Roe* fell, Kentucky's trigger law took effect and banned abortion from the time of conception, without exception for rape or incest. We partnered with other organizations to create Protect Kentucky Access, the campaign to defeat Amendment 2, a radical proposal to alter the state's constitution and ensure no right to an abortion in the commonwealth.

Defeating Amendment 2 preserved a legal path for our lawsuit arguing Kentucky's Constitution protects abortion. As of this writing, the state Supreme Court is deciding if abortion care can resume as our lawsuit plays out in court.

[Follow the case at ACLU-KY.org/EMWvCameron](https://www.aclu-ky.org/emwvcameron)

■ LGBTQ Equality

The Fairness Campaign remains a long-term partner in our fight to defeat legislation undermining the rights of LGBTQ Kentuckians and to enact Fairness Ordinances at the local level.

Currently, most Kentuckians are protected by ordinances prohibiting LGBTQ discrimination in housing, employment, and public accommodations – but it's past time for Frankfort to pass statewide protections so all Kentuckians have the right to be true to themselves no matter where they live.

Despite local victories, officials in Frankfort continue attacking LGBTQ children. In 2022, lawmakers banned trans girls from girls' sports. Bills for 2023 will include interference in gender-affirming healthcare and a "bathroom bill." The fight for LGBTQ equality is far from over, and we will do all we can to create a future in which our children can grow into healthy, happy adults.

[Read more at ACLU-KY.org/Sports](https://www.aclu-ky.org/sports)

■ Criminal Legal Reform

We believe the people closest to the issues at hand often have the best solutions. That's why we continue to recruit Kentuckians who have been impacted by the criminal legal system to join us in the fight to make our laws more just and equitable, and less punitive.

The ACLU of Kentucky Smart Justice Advocates (SJAs) are Kentuckians directly impacted by the criminal legal system and are from all corners of the commonwealth. The SJAs meet regularly to discuss strategy and grow their network. They also work directly with our policy strategists and lobby in the Kentucky General Assembly.

[Read more about the SJAs and see how you can get involved at ACLU-KY.org/SmartJusticeAdvocates](https://www.aclu-ky.org/smartjusticeadvocates)

■ Racial Disparities in Maternal Health

Much like the SJAs, we also engage people working on the issues facing pregnant Kentuckians and those who have navigated these obstacles. Kentucky currently has the highest maternal mortality rate in the US, and this deadly trend is nearly three times worse for Black and Brown people.

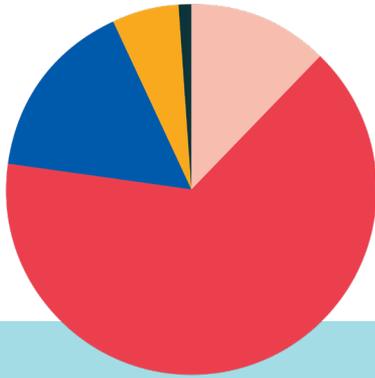
The Breaking Barriers Council brings together experts and advocates from around Kentucky working to reduce racial disparities in maternal and infant health and improve outcomes for all Kentuckians. This coalition includes birth workers in Louisville's West End, doulas in Appalachia, physicians, other advocacy organizations, and people who have personally experienced the challenges facing pregnant Kentuckians and their families.

[Read more at ACLU-KY.org/BreakingBarriersCouncil](https://www.aclu-ky.org/breakingbarrierscouncil)

FINANCIALS AND SUPPORT

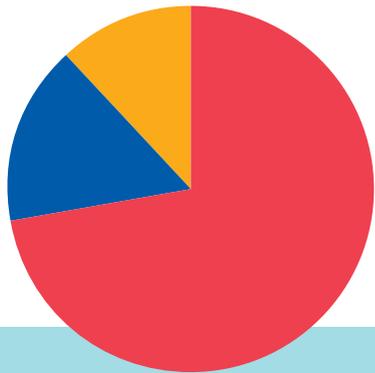


Harper Duke marches for voting rights in Frankfort.



INCOME:

Individual Giving	\$348,122
Grants + Nat'l ACLU Support.....	\$1,809,422
Investments Income + Other	\$446,105
Event Income (Net).....	\$164,923
Legal Awards.....	\$25,000
TOTAL.....	\$2,793,572



EXPENSES:

Programs.....	\$1,793,982
Administration & Management....	\$397,568
Fundraising	\$290,115
TOTAL.....	\$2,481,665

Consolidated Unaudited Statement for ACLU-KY and ACLU-KY Foundation, Fiscal Year 22 (April 1, 2021-March 31, 2022)

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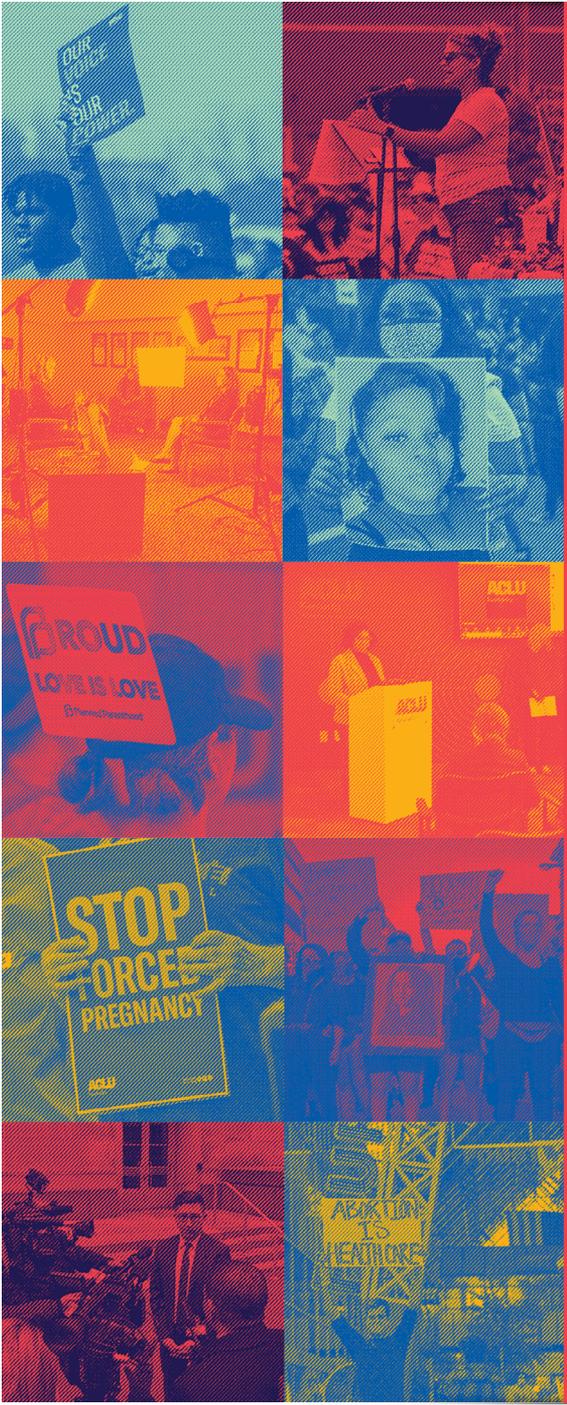
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