



## YEAR IN REVIEW

### WE SHOW UP FOR RACIAL JUSTICE

The landmark 2020 Racial Justice Act (RJA) set out a bold mandate: to eradicate racial disparities in the criminal legal system and provide remedies for all those whose proceedings are found to be tainted by racial bias. One of its key levers is to ensure that the public can access “all relevant evidence” in seeking remedies. Yet over the course of the multiple RJA cases we’ve litigated, we’ve found that gaining access to prosecutorial records has been cumbersome, time-consuming, and met with stiff resistance.

With the support of BraunHagey & Borden LLP, we’ve spent years submitting Public Records Act requests to every District Attorney (DA) in the state. Many responded promptly. Others ignored us or acknowledged woefully inadequate data collection systems. Most concerning were DAs who asserted that they do not collect, nor did they intend to produce, any information about the race of the accused or other key information.

**Watch Criminal Justice Program Director Yoel Haile talk about this project on our video at [aclunc.org/AnnualReport2023](https://aclunc.org/AnnualReport2023)**

To those DAs who have willfully defied the RJA, our response has been unequivocal: *we’ll see you in court*. In 2023, we filed cases in four counties challenging DA noncompliance. Two successfully resolved in settlement; two remain ongoing. The information we have secured has become the basis of an unparalleled resource for open-source advocacy: a publicly available database of thousands of records to ensure that we the people have a critical tool to empower our pursuit of equal justice.

### WE SHOW UP FOR FIRST AMENDMENT RIGHTS

This year we investigated a wide range of legal requests, in many cases neutralizing threats before they escalated into an issue for the courts or the front page. We sent nearly a dozen demand letters that led to satisfactory resolution or ongoing litigation in defense of Californians’ First Amendment rights, ranging from El Dorado County’s preferential religious resolution, to San Mateo’s censorship of a public art program, to Fresno’s library book censorship ordinance.

Whether it’s K-12 curriculum addressing racial injustice or LGBTQ+ people, or college and university events and protests, the need for informed guidance regarding free speech on campus is clear. We’ve been monitoring closely as issues unfold, responding to requests for guidance and actively clarifying the law and how it should be applied. Throughout, we continue to develop and promote our online hub of First Amendment and free speech resources for students, activists, educators, and public officials alike.

## WE SHOW UP FOR THE CONSTITUTIONAL RIGHTS OF HOMELESS PEOPLE

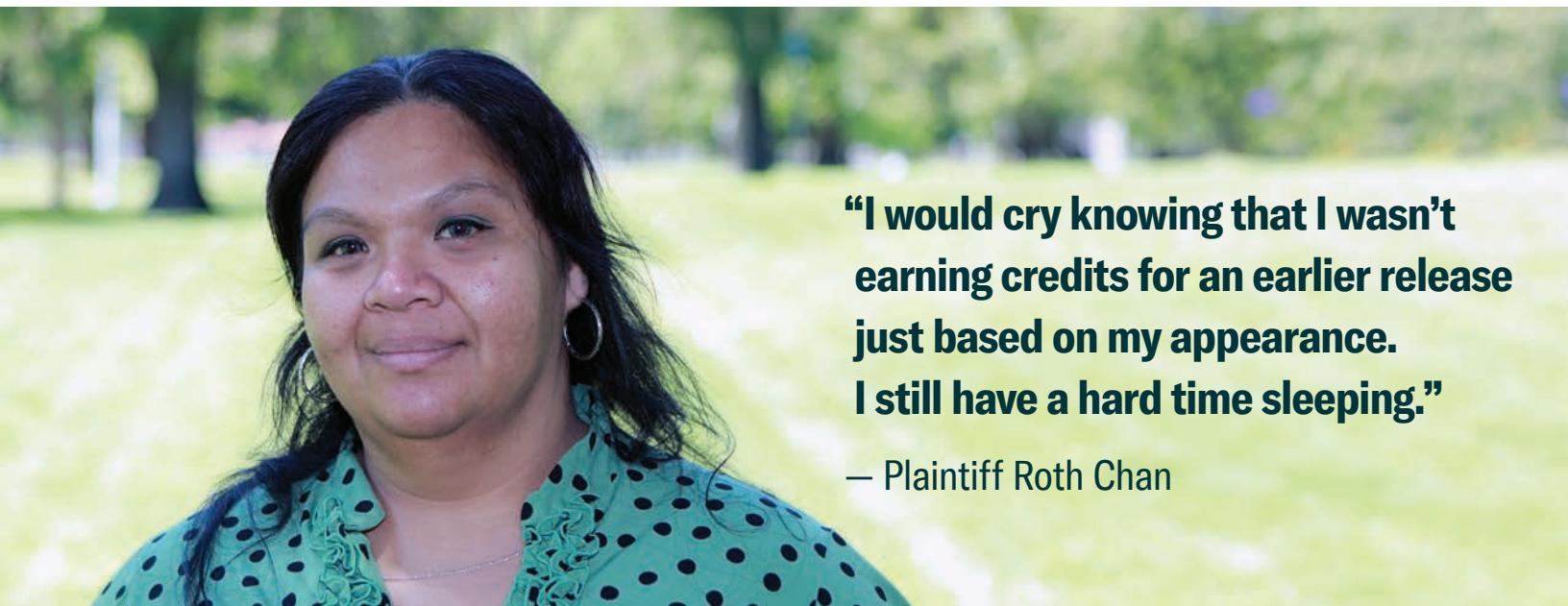
With our partners the Lawyers' Committee for Civil Rights of the San Francisco Bay Area and Latham & Watkins LLP, we filed *Coalition on Homelessness v. City and County of San Francisco* to stop San Francisco from unlawfully citing or arresting homeless people who had no other place to go, and destroying their property. Filed in 2022, we won an injunction in federal court, so San Francisco cannot criminalize those in need of housing when it offered no alternative. In 2023, we successfully defended this ruling at the Ninth Circuit Court of Appeals. But the City's misleading framing of the issues has become politically popular.

Politicians and public figures have blamed the City's problem on the court decision itself, rather than the unconscionable lack of affordable housing or alternative shelter. We're tackling the media inaccuracies and engaging a wider range of stakeholders in direct conversation through San Francisco Solutions, our project to advocate for evidence-based solutions to homelessness — solutions that protect everyone's constitutional rights, advance racial justice, and directly address the need for greater economic opportunity. The U.S. Supreme Court's opinion on a case from Grants Pass, Oregon will impact how we continue to litigate this case. But regardless of the Court's decision, our commitment to addressing the root issues will remain.

Watch client Jenny Friedenbach, from the Coalition on Homelessness, talk about this case on our video at [aclunc.org/AnnualReport2023](https://aclunc.org/AnnualReport2023)



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**“I would cry knowing that I wasn’t earning credits for an earlier release just based on my appearance. I still have a hard time sleeping.”**

— Plaintiff Roth Chan

## **WE SHOW UP FOR IMMIGRANTS IN DETENTION**

Separating our state’s prison system from federal immigration enforcement is a meaningful way to limit immigration detention, which is unnecessary and cruel. In 2023, with partners Asian Americans Advancing Justice — Asian Law Caucus and Munger, Tolles & Olson LLP, we filed a lawsuit on behalf of incarcerated and formerly incarcerated Californians — such as plaintiff Roth Chan, above — alleging that the state prison system illegally discriminates against people suspected of being born outside the United States.

In *Asian Prisoner Support Committee v. California Department of Corrections and Rehabilitation (CDCR)*, we found that CDCR’s own documents and policies, as well as the testimony of those impacted, showed staff systematically — and illegally — referred people to federal immigration officials based on their perception of someone’s place of birth, race, ethnicity, or how well they speak English.

This results in wrongful exclusion from critical resources like rehabilitative programs which reduce time in custody; alternative-to-custody programs; lower-security housing placements; and educational and vocational programs that help people transition back to their communities. Year after year, this collusion with Immigration and Customs Enforcement places hundreds of people — who’ve earned their freedom — at the risk of being re-incarcerated in immigration detention centers and then deported.



**Watch Immigrants’ Rights Senior Staff Attorney Bree Bernwanger talk about this work on our video at [aclunc.org/AnnualReport2023](https://aclunc.org/AnnualReport2023)**



## WE SHOW UP FOR LGBTQ+ AND NONBINARY YOUTH

For lesbian, gay, bisexual, transgender, queer, and nonbinary students, school is often a place where they can explore or express their identities — before they are ready to do so at home. California law recognizes this important aspect of a student’s right to privacy: that schools should not “out” students to their parents. Yet, at least ten school districts adopted "forced outing" policies in 2023; another five were considering them. In response, we moved to develop legislation to strengthen existing law against forced outing. Wherever lawsuits have been brought in defense of students, we crafted the amicus strategy, ensuring courts heard the most effective arguments from the right experts. (Amicus briefs allow those not party to a case, but with a strong interest in it, to add expert analysis to the argument.) One notable case was in Chino Valley’s Unified School District, where the California Attorney General won a preliminary injunction suspending the district’s newly instituted forced outing policy. Here, we led an amicus brief, joined by 22 other LGBTQ+ and educational rights partners, highlighting the harms LGBTQ+ students would experience if the court failed to halt the policy. Opponents vow to appeal this as far as the U.S. Supreme Court, and we’ll stay with the case as far as necessary.



## WE SHOW UP FOR A JUST DIGITAL AGE

We live digital lives and our fight for justice must include the technology realm. Modern surveillance technology — like automated license plate readers (ALPR), face surveillance, and drones — fuels high-tech profiling and perpetuates systems of biased policing. It facilitates deportations, invades privacy, chills speech, and imperils the rights of those who are Black, Indigenous, or People of Color; activists; and people who need reproductive and gender-affirming care. In 2023, an extensive investigation of ALPR use by California policing agencies uncovered that over 70 agencies in 22 counties were not only collecting sensitive information about people, but also sharing it with out-of-state agencies, including in six states with abortion restrictions. We notified these California agencies that they were violating state law and undermining the rights and safety of community members. We demanded they end these practices. California’s Attorney General also issued a bulletin about ALPR law. Many agencies have since stopped their dangerous sharing practices. Some are still failing to follow the law, and so our work continues. So long as they’re watching us, we’ll be watching them and fighting to defend and advance rights in the digital age.

