

Background

This project began shortly after I joined the Board of the ACLU Foundation of Southern California in 1979. I knew little about the Foundation or the ACLU before I joined, given that I joined primarily to offset the negative perception of my company's gold dealing with South Africa. At that time, South Africa was broadly seen as an international pariah given its Apartheid policies of treating non-whites as second-class citizens or worse.

Shortly after I joined the Foundation Board, I found its printed marketing material more fluff than substance. As there was no "welcome to the board" information package, I started asking what the Foundation and the ACLU actually did. I was then provided the ACLU's 62-word bylaws which left many questions:

"The objects of the American Civil Liberties Union shall be to maintain and advance civil liberties, including the freedoms of association, press, religion, and speech, and rights to the franchised, to due process of law, and to equal protection of the laws to all people throughout the United States and its possessions. The Union's objects shall be sought wholly without political partisanship."¹

While the ACLU's bylaws painted a comforting broad picture, I wanted to understand how the organization actually worked, what specifically it did, and how it made decisions about the various issues it was involved in. I was also interested in the issues it did not pursue. Wanting a more comprehensive view of the ACLU, I asked ACLU of Southern California Executive Director Ramona Ripston to introduce me to Ira Glasser, the then-national executive director of ACLU.

After a brief introduction, Mr. Glasser and I discussed the need and efficacy of a better understanding of the ACLU by its members, the media, and the general public. He agreed that

a better understanding of the organization would be helpful. With my discussed donation to ACLU National, he agreed to draft a one-page description of what the ACLU did in layman's terms. Mr. Glasser then penned that draft (on page 7).

Despite my appreciation of the comprehensiveness and clarity of his draft, he was concerned that the document could somehow limit the ACLU's actions in the future. Based on that concern, he decided not to formalize his draft. His 1982 one-pager remains a draft to this day, but it's the best overall description of the ACLU I have so far encountered.

Armed with the ACLU bylaws and Mr. Glasser's one-pager, I decided to put together a modest, fact-based brochure on the ACLU, setting out who the organizers are, what they do, and an overview of various ACLU offices, its staffing, funding, and resources. In thinking about a marketing hook for the brochure, I decided to focus on the Union's legal victories and defeats in the Supreme Court of the United States (SCOTUS).

After some initial drafts of the brochure, the Southern California ACLU seemed to have little interest in it and I dropped the project. The question, though, of how the ACLU fared in the U.S. Supreme Court continued to fascinate me. Although I was a bit surprised the ACLU never kept a list of all of its SCOTUS cases, I decided to collect them all. Thus began my 40-year odyssey of collecting those cases and adding case overviews and data related to those cases. This work, therefore, ended with the last SCOTUS case the ACLU was involved in, *Dept of Commerce v. New York* decided on June 27, 2019, before the ACLU's Centennial on January 19, 2020.²

— Steven C. Markoff

¹ The American Civil Liberties Union Const. § 2

² Date for establishment of the ACLU is from Samuel Walker's book *In Defense of American Liberties: A History of the ACLU* (New York: Oxford University Press, 1990). Although the ACLU was founded in 1920, its first SCOTUS case was in 1925.