

Board of Governors Kyle D. Sciuchetti, President

December 1, 2020

Tobin Klusty
WSBA Civil Rights Law Section
Via Email: tobink@mazzonelaw.com

Dear Tobin:

Attached, please find a letter from attorney Carol Johnson, requesting that WSBA take a position on changes to the US Postal Service that occurred this summer. This request was reviewed by the Board of Governors Executive Committee at its meeting on October 26, 2020. The Committee requested that the policy be circulated to WSBA entities that may have an interest in taking up the issue, such as the Civil Rights Law Section. If the Section has an interest in the topic, please report back to the Board of Governors with any recommendation you might have. If the Section is not interested in taking up the topic, no action is necessary.

Note that we have also forwarded this letter to the Practice of Law Board, the Access to Justice Board, the Council on Public Defense, and the Litigation Law Section. If the Civil Rights Law Section does decide to take this topic up, you may wish to coordinate with those entities. Thank you for your consideration.

Sincerely,

Kyle D. Sciuchetti President

Terra Nevitt
Interim Executive Director

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Cc: Member Services & Engagement Manager Julianne Unite

C L JOHNSON LAW OFFICE, PLLC 7981 168th NE, Suite 220 Redmond, WA 98052

Carol L. Johnson Attorney at Law Telephone: 2076-790-3266 Email: <u>cljbothell@hotmail.com</u>

August 24, 2020

Terra Nevitt, Executive Director Rajeev D. Majumdar, WSBA President 1325 Fourth Ave., Suite 600 Seattle, WA 98101-2539

Re: U. S. Postal Service

Dear Ms. Nevitt and Mr. Majumdar:

I hereby formally request that you bring the following issue before the WSBA Board of Governors:

The recent changes to the U. S. Postal Service operations are having a direct impact on the administration of justice in Washington State and my ability to practice law. As a member of the Washington State Bar, I request that the WSBA take a stand on the recent changes to the U. S. Postal Service.

When the blue mail boxes disappeared throughout Redmond, it was an inconvenience, since my office building does not have outgoing mail service. I now have to drive to the post office to send outgoing business mail.

But now, with the removal of the high speed sorting machines and the elimination of overtime, as well as other recent changes, mail delivery has become unreliable and much less efficient. Due to the COVID-19 pandemic, a personal visit to the recorder's office or the clerk of court is no longer an option.

I mailed a deed to the recorder's office on August 12. Twelve days later, it still does not show up as recorded. My dilemma is this: if the document is lost, do I have my client execute a replacement deed? What if the original then shows up later? Will she incur a fee from the recorder's office when the first check bounces because payment was stopped on it? If the deed is merely delayed, how long can I wait to see if it shows up before my client, an elderly woman in declining health, loses the mental capacity to execute replacement documents?

My clients often choose to use a transfer-on-death deed to avoid formal probate. However the deed *must* be recorded while the client is still living, If my client's death is imminent and if mail delivery is delayed, the deed is void, and a formal probate will be needed which increases costs and delays in the estate administration.

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Further, under CR 5(b) (2) (a), service by mail is presumed complete three days after depositing the paperwork in the outgoing mail. If delivery is delayed, how many people will have their rights terminated by default judgments because they didn't receive notice in time to respond?

The efficiency of the postal service is critical to the functioning of our justice system. The current changes to the operations of the postal service have directly impacted my business and impeded my ability to adequately represent my clients. Therefore GR 12.2 (c) does not apply, and the WSBA is not precluded from acting.

Thank you for your consideration.

Sincerely yours,

Carol L. Johnson, WSBA # 28327

(3-5 min each)

My name is Molly Matter. I am a Human Rights and Voting Rights attorney and previous past chair of the Civil Rights Law Section.

I was asked to give examples of how the Civil Rights Law Section works to uphold our commitment to the WA Race Equity & Justice Initiative Commitments:

REJI Commitment #1: "Work together with, take guidance from, be part of, and hold ourselves accountable to community-based movements in communities most affected by structural racialization and structurally racialized systems."

First, what does it mean to work together with, take guidance from and be part of community-based movements to undo structural racism? And most critically, what does it mean to be accountable to these movements, to the organizations and the people within these movements?

This language is not redundant. It expresses different actions and analyses.

Side note: when invited to represent, my first step was passing the opportunity on to my colleagues of color who face structural racism personally and professionally. We discussed as a group whether being part of this project would further racial justice efforts or work in opposition of its intent, creating a venire that the WSBA as a whole, at all levels, currently actively and commits to REJI. We know we have a lot of work to do to make that a reality.

1. The most obvious example of a community-based movement to undo racialization today is the Black Lives Matter movement. I name this process as an example in and of itself—of how we take guidance from those who experience structurally racialized systems. We hold ourselves accountable to the Black Lives Matter movement by supporting the Supreme Court's initiative that acknowledges our collective culpability in perpetuating racial discrimination. This past June, the Civil Rights Law Section drafted a letter of solidarity of the Black Lives Matter community—based national movement and sent this letter to various statewide organizations, including county bar associations. This is one example of our commitment.

We take guidance from community-based movements by listening to people on the ground mobilizing for systemic change such as La Resistencia. We work together with this community-based movement when we recruit lawyers through our list-serve to provide legal counsel for those detained at NWDC.

We work together with organizations such as Mothers for Police Accountability to end the doctrine of qualified immunity.

The most important of way we commit to REJI is by holding the WSBA leadership accountable.

- We commit by being witness to and naming racial bias within WSBA's leadership and participate on the WSBA's new Equity & Disparity Workgroup.
- By expressly supporting and engaging with Minority Bar Associations and taking their guidance. We write letters to the BOG in support of the demands made by the MBAs.
- We commit by making sure they the WSBA leadership can discern fundamental civil rights and constitutional rights from political banter.
- We cannot commit to REJI commitment #1 and be accountable to communitybased movement working to undo structural racism IF WE CANNOT DIALOGUE, DISCUSS and NAME legal problems. Naming legal problems requires analyzing root causes and conditions.
- We commit to REJI by educating the BOG and General Counsel on nonpartisan issues such as our fundamental right to vote, enshrined by the 15th Amendment, our 1st Amendment right to receive information, to peacefully protest, to seek redress from our government; our 4th Amendment right to be free from unreasonable searches and seizures of privacy of our homes and bodies and right to be free from unwarranted search and seizer; and our 14th Amendment right to be equally protected under the law regardless of nationality, ancestry, gender expression, intimate relationships and skin color

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- all the social and political rights that form the basis of our democratic society under law.
- A concrete example is an experience I had regarding publication of our newsletter that requires GR-12 review and approval by general counsel. The EC drafted a legal resource that referenced the legacy of state-sanctioned violence, such as slavery and American Indigenous genocide and also named the separation of children from their families as "cruel and inhumane." We were initially told that we must edit these statements.
- This required educating general counsel on American history and case law.
 This is a prime example of how we hold ourselves accountable to REJI #1 by holding the WSBA accountable.
- Lastly, we stay accountable to these movements by doing racial equity training
 ourselves as an executive committee, staying humble in our own ongoing
 education so that when we engage with communities impacted by structural
 racism, we do it consciously. mindfully aware of power imbalances, aware of
 who is speaking and who is not, who is at the table and who is missing, aware
 of our own power and privilege.
- Finally, one the most prescient signs of true solidarity is when communities
 impacted by structural racism reach out to us and trust us. We see real
 progress of REJI when people come to us not because of the words we say or
 the statements we publish but because of our action, how we interact daily
 with others within a structurally racist system and maintain our integrity.
- Thanks for opportunity to speak on this commitment.

6 minute 15 seconds

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 We work together by monitoring and speaking on legislation to protect the civil rights of Washingtonians who are engaged in addressing Anti-Black injustice through policy change such as legislation to restore one's right to vote.

Other examples:

- We survey our members who work in marginalized communities on what our priorities should be annually –engaging members to share what they are seeing in their communities.
- We equip our members with tools and knowledge through providing CLEs on how to represent members of the community who face various forms of discrimination.
- We recruit lawyers for the At-Large BOG position and recruit lawyers to the EC that are from - or work directly with - communities impacted by structural racism.
- We sponsor students of color from local high schools and law schools at the King County Bar Ass annual MLK luncheon. Making sure we are always adding people to the table.

WASHINGTON STATE BAR ASSOCIATION

2020 SECTION ANNUAL REPORT January 1 - December 31, 2020

Deadline: Friday, December 4, 2020

Name of the Section:	Civil Rights Law Section		
Chair:	Tobin S. Klusty, Chair (2020/2021); Molly Matter, Past Chair (2019/2020)		
To be completed by WSBA Staff	Membership Size: (As of December 1, 2020) Staff Lead: BOG Liaison: FY20 revenue (\$): As of September 30, 2020 FY20 direct expenses (\$): (As of September 30, 2020; does not included the Ban Adamber (Shares)		
Purpose: (Usually stated in the Section's Bylaws)	The mission of the Civil Rights Law Section (CRLS) is to educate and advocate for civil liberties and equal rights in the context of the legal issues of Washington State residents. The Section focuses on civil rights issues including forms of racial, ethnic, religious, gender, national origin and sexual-orientation discrimination, and persons with mental or physical disabilities, the socio-economically marginalized, and those experiencing homelessness. The section also focuses on issues involving civil liberties including freedom of speech, freedom from state-promulgated religion, and privacy rights.		
2020 Accomplishments and Work in Progress:	 Mini CLE: Evaluating and Proving Damages in Discrimination Cases 6-18-2020 (2 credits) The Section monitored 36 bills related to civil rights and publicly supported four of those bills, which included: HB 2793 – a bill to establish new procedures to vacate conviction records, which more fully restores the rights of formerly convicted persons. The bill 		

- passed, but was vetoed by the governor due to revenue and cost concerns related to the COVID-19 pandemic.
- HB 2567 a bill to provide for courthouse security, which has the effect of protecting the rights of individuals to access the courts and to come to court as witnesses or parties, with less fear of being arrested by federal immigration officers. The bill passed and was signed by the governor.
- HB 2576 a bill to prohibit the contracting of private detention centers. The bill passed and was signed by the governor.
- SB 5165 a bill to amend RCW 49.60 to add immigration status as a protected class. The bill passed and was enacted in 2020.
- The Section drafted and published a letter supporting Black
 Lives Matter and condemning systemic racism against BIPOC
 (Black, Indigenous, People of Color) residents. Additionally,
 the Section's Executive Committee undertook several actions
 to work against systemic racism in the legal community.
- The Section published a Newsletter, which highlighted the Section's legislative efforts and provided an in-depth analysis of qualified immunity.
- Recognizing the need for leaders to reflect upon internal biases to better understand and dismantle systemic racism, members of the Executive Committee engaged in implicit bias and racial equity training with JustLead at the Section's annual retreat.
- The Section met with students of color in Seattle high schools and law schools and recruited interested students to attend the Annual Dr. Martin Luther King Jr. KCBA Luncheon celebration. At the luncheon, the Section connected students with Supreme Court Justices and other legal professionals.
- In response to the WSBA Board of Governors' proposed change to WSBA mission statement, the Section drafted a statement in opposition because it prioritized the legal profession over the community in the wake of several national crises, including police brutality against Black and Brown residents. The proposed change was indefinitely tabled.
- The Section hosted a 2019/2020 awards ceremony honoring activists and legal professionals who championed the cause

- of equality for impoverished, under-served, minority or disabled populations in Washington state.
- After a WSBA Board of Governors meeting where many problematic statements where made highlighting systemic racism within the WSBA, the Section issued several statements condemning systemic racism within the WSBA and supporting many Minority Bar Associations' efforts to eradicate this entrenched racism.
- The Section offered career advice and discussed civil rights issues with law students at the Gonzaga's Virtual Section Outreach Event.
- At the conclusion of the 2020 presidential election, the Section offered an informal virtual forum to members to discuss how the election may affect civil rights and liberties for generations to come.
- Many members of the Section's Executive Committee offered information to Section members via the listserve for various topics, including, but not limited to:
 - volunteer opportunities to protect the right to vote during the presidential election;
 - o ways to support the **Black Lives Matter** movement;
 - o current events within the WSBA Board of Governors;
 - civil rights legislative updates; and
 - o tools to address mental health.
- The Section worked diligently to offer services to members during the COVID-19 pandemic, which included holding virtual Executive Committee meetings and providing information about pandemic relief.
- The Section developed a Legislative Research Committee within the Section to effectively monitor civil rights related legislation and provide updates to members.

Member Benefit Please quantify your Quantity section's current 4 (\$200) Scholarships, donations, grants awarded (\$ amount) member benefits: 1 Law school outreach events/benefits hosted For example: \$3000 36 Legislative bills reviewed/drafted Scholarships, donations, grants 1 Newsletters/publications produced awarded: 1 Mini-CLEs produced

• 4 mini-CLEs produced		Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
		Co-sponsored half-day, full-day and/or multi-day CLE seminars with non-WSBA entity
	2	Receptions/forums hosted or co-hosted
	5	Recognitions/Awards given
		New Lawyer Outreach events/benefits
		Other (please describe):
Looking Ahead: Goals & Priorities for 2021 (Top 5)	1	Continue holding the WSBA accountable for systemic racism and push for civil rights, equity, diversity and inclusion to the BOG and within WSBA.
	2	Offer and promote more CLEs addressing policies and practices that enforce civil rights protections, including systemic changes that recognize Black Lives Matter.
	3	Grow our membership and increase networking opportunities so that we can connect with other advocates in the community dedicated to the same mission. Pursuing these goals, the Section will be cognizant of the current public health crisis and use methods that will allow us to learn and connect in a healthy and safe manner.
	4	Follow and support legislation that leads to the end of mass incarceration.
	5	Educate our membership on local and national civil rights matters via newsletters, listserv, and volunteer opportunities.

Please report how this section is addressing diversity:

(Are you using any of the tools provided by WSBA and if so, how? Have you sought out training or consultation from the Diversity Specialist? How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your section done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession?)

Our Section is dedicated to enhancing diversity amongst ourselves and the WSBA as a whole. Like last year, our Section arranged for JustLead trainers to instruct Executive Committee members at our upcoming annual retreat on mindfulness techniques necessary to build racial equity awareness and promote selfcare. We included this training at our annual retreat, an event where the Executive Committee discusses goals and plans events for the Section during upcoming year, to start the year with better tools to achieve our primary goal - hold the WSBA accountable for systemic racism and push for civil rights, equity, diversity and inclusion to the BOG and within WSBA.

Our Section is also committed to the Washington Race Equity & Justice Initiative, which is an effort to "coordinate and grow a sustainable statewide community of legal and justice system partners in Washington State who can more effectively and collaboratively work toward eradicating racially biased policies, practices, and systems." We are currently working together with other sections and advocates in line with this commitment.

Recently, we issued several statements supporting Minority Bar Associations' (MBAs) efforts to eradicate systemic racism after a WSBA Board of Governors meeting where many problematic statements where made highlighting systemic racism within the WSBA. Our Executive Committee promised our members that we will work together with the MBAs towards this goal. Similarly, we strongly encouraged Section members to apply to the WSBA's Atlarge BOG position with the aim to enhance diversity within the BOG. The final candidates for the position include multiple Section members.

Notably, our Executive Committee contains many leaders who are women, people of color, and lawyers with diverse economic and cultural backgrounds. Before taking action, we utilize the diversity of our Executive Committee to carefully consider whether the action is culturally competent and promotes our goals.

Please report how this section is addressing professionalism:

(Does the section's work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior?)

Our Section is addressing professionalism as we push for civil rights, equity, diversity, and inclusion to the BOG and within WSBA. Civil rights, equity, and diversity all share a core element with professionalism: empathy. Empathy drives understanding and willingness to listen. If we listen or seek to understand before we make rash assumptions about someone different than us, we will be become more civil and professional as we practice law.

During our training at the annual retreat, the Executive Committee will be learning methods that will help us enhance our empathy and address the root causes of unprofessionalism.

Please report how this section is integrating new and young lawyers into its work:

(How have you brought new and young lawyers into your decision making process? Has the section supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities?)

The current and immediate past chairs are both young lawyers. Several other members of our Executive Committee are also young lawyers, including the Secretary and the Young Lawyer Liaison. The Young Lawyer Liaison is position created last year. All of these young lawyers are voting members on the Executive Committee. We also provide career assistance and network with young lawyers and law students, including recently at Gonzaga's Virtual Section Outreach Event.

Please describe your Executive Committee's relationship with WSBA staff and the Board of Governors.

For example:

- Quality of WSBA staff support/services provided to Section Executive Committee
- Involvement with Board of Governors, including assigned BOG liaison
- Ideas you have on ways WSBA can continue to strengthen/support services to sections.

We continue to be highly appreciative of the support we have received from the WSBA, especially from our previous liaison Eleen Trang. She has helped guide us through a year plagued with multiple pandemics. She also reminds us about key deadlines and is always available for questions about WSBA procedure.

We are also very grateful to have had Alec Stephens as our BOG liaison. Alec is a pioneer for civil rights that we all look up to. He has a wealth of knowledge about the WSBA and civil rights that enhanced the services we were able to provide to our members. He is also selfless – he uses his experience to better the community he serves and empower the members of CRLS to be zealous advocates for justice and equity. We cannot thank him enough.

With our mission above, our Section will continue holding conversations with WSBA General Counsel regarding GR-12. It has been difficult for the Section to advocate for civil rights when the WSBA BOG has deemed many civil rights issues as "political." We will continue to advocate that civil rights are not "political" issues, but are fundamental constitutional legal rights that affect access to the administration of justice. We hope to further this conversation during the upcoming year.

Note: Annual Reports will be provided to the WSBA Executive Director and Board of Governors and will be posted on your section's webpage. We encourage you to share the Annual Report with your BOG liaison and section membership.

Reports are scheduled to be included in the January 2021 BOG Meeting Materials.

Return by December 4, 2020 to eleent@wsba.org

WASHINGTON STATE BAR ASSOCIATION

2020 Section Contacts & Key Terms

Section	Key Terms
Admin Law	Admin. law proceedings, public records, Office of Administrative Hearings, Administrative Procedure Act, open public meetings, RCW 42.56, RCW 42.30, RCW 34.05, RCW 34.12, RCW 40.14, Rulemaking, Administrative procedure, archives, records
Alt. Dispute Resolution (ADR)	Alternative dispute resolution, mediation, arbitration, collaborative law, ADR, conflict resolution, settlement, RCW 7.04A, RCW 7.05, RCW 7.06, RCW 7.07, RCW 7.70A, RCW 26.09.015, RCW 26.09.016
Animal Law	Animals
Antitrust, Consumer Protection & Unfair Bus. Practices	Antitrust, consumer protection issues
Business Law	DFI, banking, gift cards, money transfers, nonprofit corporations, corporations, antitakeover, gift cards, \$ transmitters, data security, e-commerce, e-signatures, e-records, internet, mobile, privacy, big data
Cannabis Law	Cannabis, marijuana
Civil Rights	Death penalty and civil rights-related issues
Construction Law	Construction-related issues, contractor, construction, architect, engineer, contract, design professional, contractor, subcontract, lien, bond, retainage, RCW 39.04, RCW 39.08, RCW 60.04, RCW 60.28
Corporate Counsel	Corporate counsel-related issues
Creditor Debtor Rights	Creditor debtor-related issues, RCW 6, RCW 7.08, RCW 7.60, RCW 7.64, RCW 6.1, RCW 60, RCW 61, RCW 62A, foreclose, foreclosure, receiver, creditor, lien, debtor, borrower, collection, judgment, consumer
Criminal	Criminal issues
Elder Law	Guardian ad litem, vulnerable adults, estate planning, end of life, power of attorney, nursing home care, death/dying, decision-maker rights, Joel's Law, aging, advance directive, supported decision-making, guardianship, informed consent, vulnerable adult, isolation, long-term care
ELUL	Growth Management Act, State Environmental Policy Act, Land Use Petition Act, Model Toxics Control Act, Shoreline Management Act, Dept. of Ecology, water, water quality, water rights, critical areas, land use, vesting, 36.70A, 43.21C, 43.31, 77, 81, 90
Family Law	ALL of Title 26, divorce, separation, domestic partnership, custody, community property, adoption, guardian ad litem, child support, domestic violence protective orders, antiharassment protective orders, at-risk youth, evidence, doctor-patient privilege, alternative dispute resolution, mediation, arbitration, collaborative law
Health Law	Health, healthcare, physician, patient, medical, medicine, drug, hospital, ambulatory, surgery, pharmacy, pharmacist, prescription, prescribe, practitioner
Indian Law	Native American-related issues
Intellectual Property	Intellectual property-related issues
International Practice	International practice-related issues
Juvenile Law	Civil/legal juvenile offender and dependencies, adoption, foster care, CPS, parent's rights, juvenile due process, juvenile records, immigrant status, education/schools re: discipline, mental health law, restorative justice
Labor & Employment	Labor and employment issues, union

LAMP	Military, Family, VA, Veterans, active duty, national guard, reserves, defense, education, service member, judge advocate, army, navy, air force, marines, coast guard, RCW 38, WAC 246, WAC 357, WAC 246, WAC, 323, WAC 40-30-088, WAC 208-630-5401, WAC 173-303-578, WAC 365-196-475, WAC 357-31-700, WAC 357-31-370, WAC 357-31-373, 357-46-060, 323-10-030, 357-58-475, 308-99-040, 480-14-240, 323-10-060, 458-16A-120, 484-20-015, 284-17-254, 415-02-740, 284-43-262, 415-112-280, 132H-160-370, 308-96A-530, 182-503-0535, 458-20-177, 308-48-870, 484-30-005, 415-106-280, 357-01-304, 357-46-053, 192-270-017
LGBT	Sexual orientation, gender orientation, transgender, religious liberty or freedom or exemption, gender expression, bullying, long-term care for LGBT, Arlene's Flowers
Litigation	Litigation-related issues, litigation, suit, lawsuit, civil, damages, remedy, tort, attorney, access to justice, due process, court, Statute of Limitations, immunity, attorney's fee, procedure, civil, death, wrongful, wrongful death, duty, burden, plaintiff, defendant, petitioner, respondent, judicial, judiciary, claimant, trier-of-fact, jury, appellant
Low Bono	Access to justice, moderate means, legal justice
RPPT	Probate, nonprobate, trust, guardianship, community property, real property, Interest Ownership Act, adverse possession statute, As a general guideline, Title 11 (definition of an heir), Title 83, or Chapter 26.16 of the RCW, estate, personal representative, executor, administrator, decedent, will, testamentary, inherit, trustee, gift RP: Deed of trust, mortgage, condominium, recording act, real estate excise tax, seller disclosure statement, adverse possession, quiet title, ejectment, surveys, plats, private ways of necessity, easement, prescriptive easement, foreclosure, non-judicial foreclosure, judicial foreclosure, lien priority, real estate broker, property manager, property management, landlord, tenant, eviction, unlawful detainer, contractor registration act, RCW 7.28, RCW 8.24, RCW 18.85, RCW 18.86, RCW 18.27, RCW 58.17, RCW 59.12, RCW 59.18, RCW 61.24, RCW 64.90, RCW 64.06
Senior Lawyers	Senior-related issues
Solo & Small Practice	Solo and small-practice related issues
Tax	Digital goods, nexus, tax appeals process, property tax, excise tax, high technology tax credit, tax credit, tax preferences
World Peace Through Law	Trafficking, human rights, international, gender, justice



Proposed terms used to filter CRLS legislation:

- Black Lives Matter
- Civil Rights
- Children's rights
- Collective Bargaining
- Death penalty
- Decriminalization
- Detention
- Disability
- Disparity
- Domestic VIolence
- Due process
- Education/Schools
- Employment Rights
- Felony
- Fourteenth Amendment
- Freedom of speech
- Gender
- Gender Orientation
- Homeless
- Human rights
- Immigrant status
- Justice
- Labor
- Legalization
- LGBTQ
- Mass incarceration
- Mental health
- Native American
- National Origin
- Parent's rights
- Peaceful Assembly
- Prison
- Public Records Act/PRA
- Re-entry
- Religious liberty
- Reproductive Rights
- Sexual Orientation
- Trafficking
- Transgender
- Voting
- War on drugs