



ANNUAL REPORT 2002-2003

ABOUT CIR:

“CIR [HAS] PROVEN THAT A SMALL BUT DETERMINED ORGANIZATION CAN USE THE LAW—AND THE TRUTH—TO RIGHT A PERVASIVE WRONG.”

STANLEY KURTZ, *NATIONAL REVIEW*

“THE CENTER FOR INDIVIDUAL RIGHTS . . . IS POISED TO LEAVE A LASTING IMPRINT ON THE DEBATE OVER RACE.”

LEGAL TIMES

“THEY’RE VERY GOOD LAWYERS. THEY DO VERY GOOD LEGAL WORK. THEY ARE TENACIOUS OPPONENTS.”

JOHN PAYTON, LEAD COUNSEL FOR UNIVERSITY OF MICHIGAN

“OTHERS MIGHT RECOIL AT SUCH PROVOCATIVE CASES, BUT THE LAWYERS AT THE CENTER FOR INDIVIDUAL RIGHTS HAVE TAKEN THEM ON WITH RELISH.”

CHICAGO TRIBUNE

A large, teal-colored letter 'C' is positioned at the start of the first paragraph, serving as a decorative element for the word 'CIR'.

IR's thirteenth year of operation was marked by a major step forward in its campaign to end the use of racial preferences in college admissions. In December, the U.S. Supreme Court agreed to hear CIR's two cases challenging racial preferences in admissions at the University of Michigan Law School and undergraduate college.

For the first time in twenty-five years, the Court agreed to pass on the constitutionality of using different academic standards in order to assure racial diversity in education. This is the culmination of a litigation strategy begun over ten years ago, when CIR brought its first admissions case against the University of Texas Law School (*Hopwood v. Texas*).

At that time, CIR was the only group willing to tackle the use of race preferences. Now, the overwhelming majority of Americans think that race shouldn't be a factor in admissions or employment. A July 2001 *Washington Post* survey showed that 93 percent of whites and 86 percent of African Americans were opposed to any use of race in admissions.

Spurred by CIR's victory in *Hopwood* and its subsequent litigation, schools in five states have done away with all race preferences yet continue to enroll significant numbers of minority students. In fact, there is no institution of higher education in Florida, Georgia, Texas, California, or Washington that has underrepresented minority enrollment of less than ten percent—the minimum number Michigan has testified is necessary for the educational benefits of diversity. It turns out that it is possible to have diversity without illegally discriminating against applicants of any racial group.

It remains to be seen what the Supreme Court will do with the Michigan cases. In the long term, however, we predict that these cases will stand as a milestone in the long effort to get the government out of the business of preferring one race over the other, no matter what its motive. Regardless of the legal outcome, CIR's high profile legal challenges have moved public opinion and more gradually, institutional practices, firmly away from the use of racial double standards.

In tackling the unconstitutional use of race preferences, CIR has taken on some of the most powerful and wealthy institutions in America—many of which have filed amicus briefs on behalf of the University of Michigan in these cases. But we will see these cases through to a successful conclusion.

Other significant legal victories are described in this report. Three in particular advanced CIR's long-time strategic goal of re-establishing the idea that the First Amendment protects *all* points of view, not just the views of a politically favored class or group. *Sypniewski v. Warren Hills Regional School System*, *Father Flanagan's Boys Home v. District of Columbia, et al.* and *Perez v. Posse Comitatus, et al.* represent tangible progress against the increasing use of speech codes, harassment policies, and federal discrimination laws to enforce adherence to a favored political agenda.

Strategic legal campaigns like CIR's efforts to end race preferences and to reform First Amendment law do not just happen. They require careful, strategic case selection, tenacious lawyering, and years of patience in the face of many setbacks.

CIR is fortunate to have the pro bono assistance of superb lawyers. In the Michigan cases, Kirk Kolbo, R. Lawrence Purdy, and David Herr of the Minneapolis firm of Maslon, Edelman, Borman & Brand, L.L.C., undertook the trial and appellate litigation in enormous skill and dedication. Their efforts are representative of the generous assistance we have received from law firms and attorneys nationwide.

CIR will maintain its focus on civil rights and the First Amendment. At the same time, however, we will extend our agenda into other areas where individual rights are at risk. CIR has made it its business to bring the sort of high stakes lawsuits that both change the law and move public opinion in the direction of principled, constitutional limits on government action. In the past year, our Michigan cases, in particular, have shown the spectacular results that can be achieved through this effort. Our challenge will be to continue the momentum of our race preference litigation, while bringing the same energy to bear on other promising areas.



Terence J. Pell
President



Jeremy Rabkin
Chairman of the Board

United States Supreme Court

Ashton v. City of Memphis, 281 F.3d 516 (6th Cir. 2002), *cert. denied*, 123 S. Ct. 87 (2002). Civil Rights; Equal Protection. Represented police officers who were subjected to discriminatory treatment and whose claims were dismissed for lack of Article III standing.

Outcome: Loss. Petition seeking Supreme Court review of 6th Circuit Court of Appeals decision denied.

ABOUT GRATZ AND GRUTTER:

“ITS TWO CHALLENGES TO UNIVERSITY OF MICHIGAN ADMISSIONS POLICIES CEMENT ITS PLACE AS A POWERFUL PLAYER IN CONSERVATIVE LEGAL CIRCLES.”

LEGAL TIMES

Gratz v. Bollinger, 71 U.S.L.W. 4480 (2003). Civil Rights; Equal Protection. Challenging racial preferences in student admissions at the University of Michigan College of Literature, Science, and the Arts.

Outcome: Victory. Injunctive relief and damages pending.

Grutter v. Bollinger, 71 U.S.L.W. 4498 (2003). Civil Rights; Equal Protection. Challenged racial preferences in student admissions at the University of Michigan Law School.

Outcome: Loss.

GRID Radio v. Federal Communications Commission, 278 F.3d 1314 (D.C. Cir. 2002), *cert. denied*, 23 S. Ct. 82 (2002). Freedom of Speech. Represented owner and operator of low power, non-commercial radio station in challenge to Federal Communications Commission’s refusal to license “micro-broadcasters.”

Outcome: Loss. Owner’s petition seeking Supreme Court review of his loss in D.C. Circuit Court of Appeals denied.

ABOUT SCHEIDLER:

“AN AFFIRMATION BY THE JUSTICES OF THE RIGHT TO PROTEST. AND A REBUKE TO THOSE WHO WOULD MISUSE FEDERAL RACKETEERING LAW TO PREVENT INDIVIDUALS AND GROUPS FROM EXERCISING THAT RIGHT.”

SAN DIEGO UNION-TRIBUNE

Scheidler v. National Organization of Women, 123 S. Ct. 1057 (2003). Freedom of Speech. Participated as amicus curiae in case where abortion protestors were sued for racketeering under RICO.

Outcome: Victory.

Sypniewski v. Warren Hills Regional Board of Education, 307 F.3d 243 (3rd Cir. 2002), *cert. denied*, 123 S. Ct. 2077 (2003). Freedom of Speech. Representing student who was suspended for wearing a T-shirt with the word “redneck” in a First Amendment challenge to the school district’s dress code and racial harassment policy.

Status: Pending on remand to U.S. District Court. School’s petition seeking Supreme Court review of its loss in 3rd Circuit Court of Appeals denied.

ABOUT *FATHER FLANAGAN'S*:

"THE SUIT OBVIOUSLY TRENCHES UPON FREE SPEECH AND ONE'S RIGHT TO PETITION THE GOVERNMENT."

ROBYN BLUMMER (COLUMNIST), ST. PETERSBURG TIMES

Federal Appellate Courts

Father Flanagan's Boys Home v. District of Columbia, 2003 U.S. App. Lexis 7363 (D.C. Cir. 2003). Freedom of Speech. Defended neighborhood group sued by Boys Town for federal housing discrimination because of group's peaceful opposition to proposed housing project.

Outcome: Victory.

Miami University Wrestling Club v. Miami University, 302 F.3d 608 (6th Cir. 2002). Civil Rights; Equal Protection. Challenged elimination of men's athletic teams to satisfy gender quota requiring equal athletic participation rates by male and female students.

Outcome: Loss.

Smith v. University of Washington Law School, No. C97-335Z (W.D. Wash. June 5, 2002), *appeal docketed*, No. 02-35676 (9th Cir. July 19, 2002). Civil Rights; Equal Protection. Challenging racial preferences in student admissions at the University of Washington Law School.

Status: Pending. On appeal to U.S. Court of Appeals for the 9th Circuit following June 2002 loss in U.S. District Court after trial on narrow tailoring.

Federal District Courts

Affordable Housing Development Corp. v. City of Fresno, No. F-97-5498 (E.D. Cal. Aug. 31, 2000). Freedom of Speech. Defending neighborhood homeowner sued by low-income housing developer for federal housing discrimination because of statements made regarding proposed housing project.

Status: Pending. U.S. District Court granted summary judgment in favor of CIR client Travis Compton and other defendants.

ABOUT *BRENNAN*:

"CITY HALL AND THE BOARD OF EDUCATION ARE PUSHING AHEAD WITH A SINGULARLY SHAMEFUL SURRENDER TO REVERSE DISCRIMINATION."

NEW YORK POST

Brennan v. Ashcroft, No. 02-0256 (E.D. N.Y. filed Jan. 11, 2002).

United States v. New York City Board of Education, 260 F.3d 123 (2nd Cir. 2001). Civil Rights; Equal Protection. Representing white males challenging preferential benefits provided to minorities and women in settlement agreement in litigation in which U.S. Department of Justice charged New York City Board of Education with discrimination in hiring and promotion of school custodians.

Status: Pending in U.S. District Court after victory on intervention issue in U.S. Court of Appeals for the 2nd Circuit.

ABOUT *DYNALANTIC*:

"[DYNALANTIC] OFFICIALS FELT THEY WOULD WIN THE CONTRACT EASILY. WRONG . . . ONLY BUSINESSES OWNED BY 'SOCIALY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS' COULD MAKE BIDS."

NEW YORK SUN

DynaLantic Corp. v. U.S. Dept. of Defense, 937 F. Supp. 1 (D.D.C. 1996), *rev'd*, 115 F.3d 1012 (D.C. Cir. 1997). Civil Rights; Equal Protection. Challenging U.S. Department of Defense Section 8(a) minority contracting set-aside program on behalf of small business which manufactures training simulators.

Status: Pending in U.S. District Court after victory on standing issue in U.S. Court of Appeals for the D.C. Circuit.

ABOUT *MAITLAND*:

"IF A MALE CAN PROVE THAT RAISES ARE BASED ON NOTHING MORE THAN GENDER, HIS RIGHTS ARE VIOLATED."

MINNESOTA DAILY

Maitland v. University of Minnesota, 260 F.3d 959 (8th Cir. 2001), *cert. denied*, 122 S. Ct. 1300 (2002). Civil Rights; Equal Protection. Challenged 1989 consent decree whereby the University of Minnesota agreed to distribute \$3 million to female faculty members to remedy alleged gender disparities in salaries.

Outcome: Victory. Settlement agreement reached, in which University agreed not to determine salaries on the basis of gender.

ABOUT *PEREZ*:

"WE'RE CITIZENS FIGHTING FOR OUR
CITIZENSHIP RIGHTS."

MARGARET BIANCULI, NEWSDAY

Perez v. Posse Comitatus, No. CV 01-6201 (E.D. N.Y. filed Sept. 17, 2001). Freedom of Speech. Defending community group being sued under civil rights statutes because of its vocal opposition to illegal immigration.

Status: Victory.

Willard v. Alexander, No. 01-CV-1356 (D. Minn. filed July 26, 2001). Freedom of Speech. Representing professor who was suspended and subjected to a series of broad, vague speech restrictions because of speech college administrators considered offensive.

Status: Victory. Defendants agreed to judgement for plaintiff.

ABOUT *WORTH*:

"ONCE AGAIN...THE CENTER FOR
INDIVIDUAL RIGHTS HAS SUCCEEDED
IN USING THE GOVERNMENT'S OWN
REPORTING REQUIREMENTS TO
EXPOSE THE SHAMEFUL TRUTH OF SO-
CALLED AFFIRMATIVE ACTION."

STANLEY KURTZ, NATIONAL REVIEW

Worth v. Martinez, No. 02-1576 (D.D.C. filed Aug. 8, 2002). Civil Rights; Equal Protection. Representing U.S. Department of Housing and Urban Development employee suing HUD and the EEOC over racial and gender preferences in federal employment.

Status: Pending in U.S. District Court for the District of Columbia.

Public Information

News Coverage

CIR and its cases were covered in numerous articles and editorials. A sample of noteworthy articles follows:

Feature Article on CIR

Jonathan Groner. "Center Ring." *Legal Times*, December 9, 2002.

Shira Kantor. "Conservative Crusader Enlists in Affirmative-Action Fight." *Chicago Tribune*, January 19, 2003.

Civil Rights

Robert Becker. "Diversity Not Limited to Race, 2 Women Say." *Chicago Tribune*, January 16, 2003.

Joan Biskupic. "Case Could Reshape College Admissions." *USA Today*, December 2, 2002.

Robyn E. Blumner. "Discrimination in Federal Hiring Now Works Against White Males." *St. Petersburg Times*, October 6, 2002.

Thomas Bray. "Social Science Shouldn't Decide U-M Case." *Detroit News*, June 8, 2003.

Thomas Bray. "Disorder in the Court; Judicial Shenanigans Mar an Affirmative-Action Case." *OpinionJournal.com*, June 18, 2002.

Joel Budd. "Quota, Un-Quota." *The Guardian* (London), April 8, 2003.

Richard Cohen. "Diversity at What Cost?" *Washington Post*, April 3, 2003.

Terry Eastland. "Job Preferences Face a New Test." *Washington Times*, August 25, 2002.

Thomas Fields-Meyer et al. "Big Fight on Campus; Jennifer Gratz Battles Affirmative Action – With a Little Help From the Oval Office." *People*, February 3, 2003.

Michael A. Fletcher. "Universities Alter Recruiting; Race-Neutral Admission Tactics Found to Boost Diversity." *Washington Post*, December 3, 2002.

Maryanne George. "Poll: Policy at U-M Unpopular; Most in State Oppose Using Race in Admissions." *Detroit Free Press*, February 7, 2003.

Amy Goldstein and Dana Milbank. "Bush Joins Admissions Case Fight; U-Mich. Use of Race is Called 'Divisive.'" *Washington Post*, January 16, 2003.

Anne Hull. "A Dream Denied Leads Woman to Center of Suit." *Washington Post*, February 23, 2003.

Barbara Kantrowitz & Pat Wingert. "What's at Stake." *Newsweek*, January 27, 2003 (about *Gratz & Grutter*).

Charles Laurence. "I Opened that Letter and Said: 'Can We Sue Them?'" *Sunday Telegraph* (London), January 19, 2003.

John Leo. "Sins of Admission." *U.S. News & World Report*, January 27, 2003.

John McWhorter. "Diversity's No Longer the Point, is it?" *Washington Post*, December 8, 2002.

Rachel Hartigan Shea. "What's the Place of Race?" *U.S. News & World Report*, March 31, 2003.

Jacques Steinberg. "3 See College Suit as a Way to Show They Belonged." *New York Times*, February 23, 2003.

Stuart Taylor Jr. "When Affirmative Action is Nothing but Discrimination." *National Journal*, September 23, 2002 (about *Worth*).

George F. Will. "Seeking 'Diversity'? Don't Overlook Conservatives." *Deseret News*, January 26, 2003.

Greg Winter. "Study Challenges Case for Diversity at Colleges." *New York Times*, March 20, 2003.

Freedom of Speech

Bill Bray. "Students Welcome Shirt Ruling; Most Warren Hills Teens Say Redneck Isn't Offensive." *Express-Times*, October 5, 2002.

Robert Hanley. "High School Should Not Have Banned 'Redneck' T-Shirt, Federal Court Says." *New York Times*, October 5, 2002.

Caryle Murphy. "Boys Town Appeals in Suit Against Activists." *Washington Post*, October 24, 2002.

Erin Texeira. "Judge: Groups Not to Blame in Beatings." *Newsday*, September 14, 2002.

"A Win for Free Speech." *St. Petersburg Times*, March 6, 2003 (editorial about *Scheidler*).

CIR Publications (Selection)

Curt A. Levey. "Racial Preferences in Admissions: Myths, Harms, and Alternatives." *Albany Law Review*, 2003 (issue No. 2).

Curt A. Levey. "Appeal to Affirmative Action." *Washington Times*, October 22, 2002.

Curt A. Levey. "The Permanent Entitlement." *New York Sun*, April 1, 2003 (also published in *Detroit News* and *San Diego Union-Tribune*).

Terence J. Pell. "Program Sets Drastically Different Admission Standards." *Detroit News*, December 3, 2002.

Terence J. Pell. "Racial Preferences and Formal Equality." *Journal of Social Philosophy*, June 2003.

Michael E. Rosman. "Thoughts on *Bakke* and Its Effect on Race-Conscious Decision-Making." *University of Chicago Legal Forum*, 2002.

Public Appearances

CIR representatives participated in numerous public debates and addressed audiences of attorneys, scholars, journalists, and students, including:

Albany Law Review Annual Symposium * American Bar Association * American Philosophical Association * City Club of Cleveland * Colby College * Federal Bar Council Winter Conference * Federalist Society * Georgetown University Law Center * National Consortium on Racial and Ethnic Fairness in the Courts * South Asian Bar Association * State Bar of Michigan – Public Corporation Law Section * Supreme Court Institute for Teachers * University of Virginia Conference on Public Service & the Law * Washington Regional Task Force Against Campus Prejudice * Federalist Society Lawyers Chapters in Austin, Columbus, Dallas, Philadelphia * Federalist Society Student Chapters at American University, New York University, Tulane University, University of Chicago, University of Pennsylvania

CIR representatives also discussed CIR's cases on numerous radio and television programs, including:

ABC: Good Morning America * CBS: 60 Minutes * NBC Nightly News * PBS: NewsHour with Jim Lehrer * CNBC: Capital Report & Early Today * CNN: MoneyLine & Special Report with Aaron Brown * Court TV: Catherine Crier Live * C-SPAN * MSNBC: Hardball, Nachman & Abrams Report * Univision * KSDK-TV (St. Louis) * RNN-TV (New York) * WABC-TV (New York) * WDIV-TV (Detroit) * WHUT-TV (DC) * WTTG-TV (DC) * WYBE-TV (Philadelphia) * ABC Radio Network * American Family Radio * American Urban Radio Network * CBC radio (Canada) * CNN Radio * Jason Jarvis Show * Jim Bohannon Show * Mitch Albom Show * NBC Radio Network * NPR: Talk of the Nation, Diane Rehm Show, Morning Edition, Justice Talking & Tavis Smiley Show * Oliver North Show * Pacifica Radio Network Radio America * Sam Donaldson Show * SBS Radio (Australia) * XM Satellite Radio * Boston Public Radio * Michigan Radio * Michigan Talk Radio * Minnesota Public Radio * Northeast Public Radio * KERA-FM (Dallas) * KFMB-AM (San Diego) * KNRC-AM (Denver) * KOGO-AM (San Diego) * KSFO-AM (San Francisco) * K TSA-AM (San Antonio) * WABC-AM (New York) * WAMU-AM (DC) * WGN-AM (Chicago) * WGOP-AM (DC) * WJR-AM (Detroit) * WPHT-AM (Philadelphia) * WQBH-AM (Detroit) * WTNT-AM (DC) * WTOP-AM (DC) * WWJ-AM (Detroit)

Financial Information

Statements of Financial Position MARCH 31, 2003 AND 2002

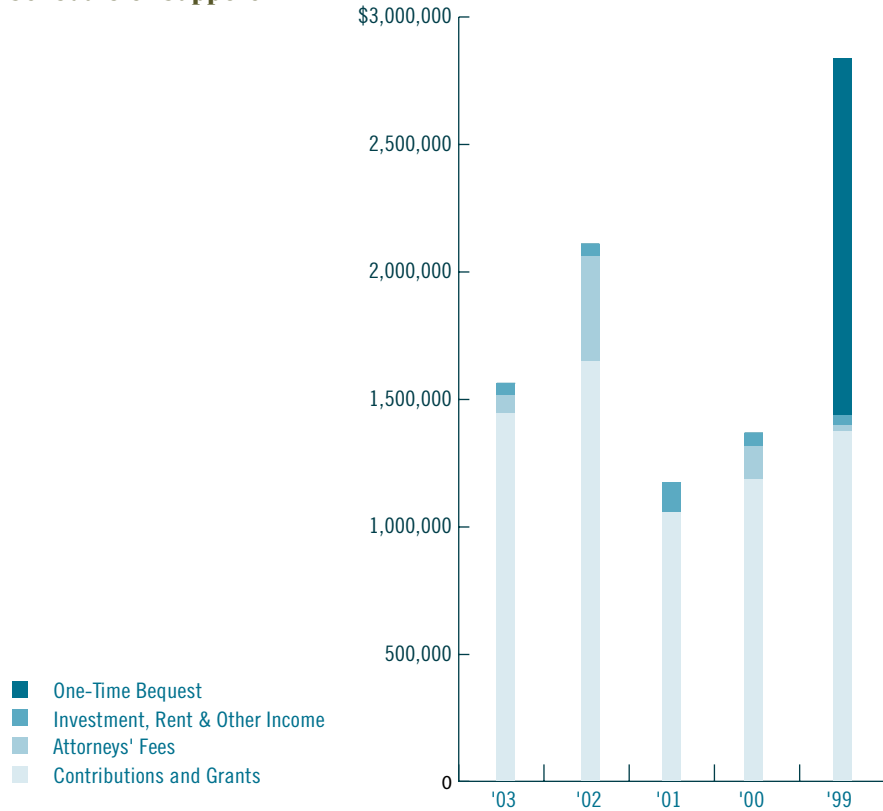
	2003	2002
ASSETS		
Cash and Cash Equivalents	\$1,042,648	\$ 928,166
Investments	697,413	885,799
Accounts Receivable	50,843	68,439
Prepaid Expenses	11,509	18,350
Property & Equipment (Net)	19,951	25,875
Deposit	17,075	16,590
Total Assets	\$1,839,439	\$ 1,943,219
LIABILITIES AND NET ASSETS		
Accounts Payable and Accrued Expenses	\$ 55,511	\$ 38,365
Accrued Rent, current portion	5,284	5,284
Security Deposit	2,555	-
Accrued Rent, net of current portion	13,650	18,934
Net Assets - Unrestricted	1,712,439	1,818,827
Net Assets - Temporarily Restricted	50,000	61,809
Total Net Assets	\$1,762,439	\$ 1,880,636
Total Liabilities and Net assets	\$1,839,439	\$ 1,943,219

Statements Of Activities FOR THE YEARS ENDED MARCH 31, 2002 AND 2001

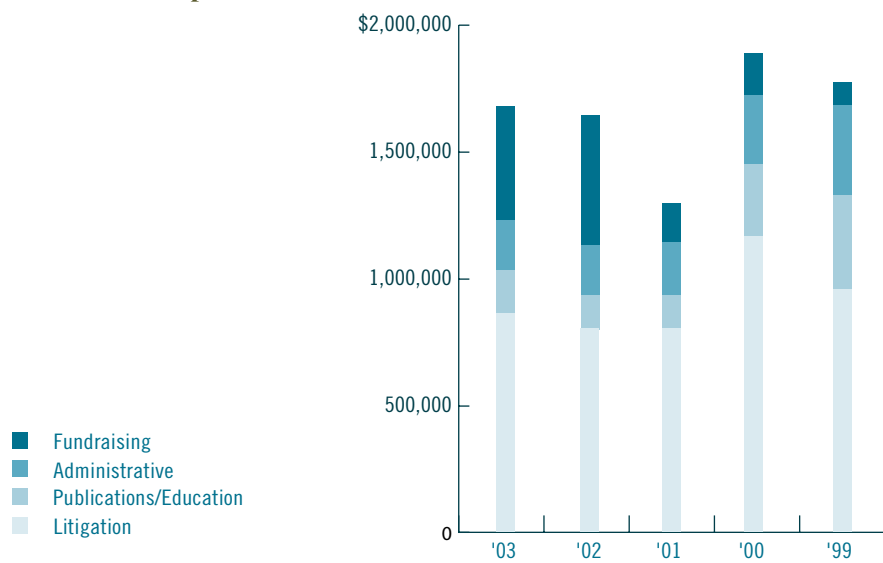
	2003	2002
SUPPORT		
Contributions and Grants	\$1,440,994	\$ 1,644,421
Attorneys' Fees	74,824	419,141
Investment, Rent & Other Income	47,636	46,214
Total Support	\$1,563,454	\$ 2,109,776
EXPENSES		
Programs:		
Litigation	\$ 862,018	\$ 799,505
Publications/Education	173,072	135,498
Total Program Expenses	\$1,035,090	\$ 935,003
Administrative	198,196	199,644
Fundraising	448,365	510,884
Total Expenses	\$1,681,651	\$ 1,645,531
Change in Net Assets	\$ (118,197)	\$ 464,245
Net Assets - Beginning	1,880,636	1,416,391
Net Assets - Ending	\$1,762,439	\$ 1,880,636

Figures are excerpted from the audited financial report. Center for Individual Right's complete audit is available upon request from the Center's Washington, D.C. office.

Schedule of Support



Schedule of Expenses



Staff

Terence J. Pell (Ph.D., Notre Dame, 1996; J.D., Cornell Law School, 1981; B.A., Haverford College, 1976) is CIR's President. He is a member of CIR's Board of Directors.

Michael E. Rosman (J.D., Yale Law School, 1984; B.A., University of Rochester, 1981) is CIR's General Counsel. Most recently a litigator with the firm of Rosenman & Colin, he joined CIR in 1994.

Ralph L. Casale (J.D., Cornell Law School, 1988; B.A., University of Chicago, 1983) is CIR's Associate General Counsel. Most recently a litigator with the firm of Tucker, Flyer and Lewis, he joined CIR in 1998.

Hans F. Bader (J.D., Harvard Law School, 1994; B.A., University of Virginia, 1991) is CIR's Senior Associate Counsel. After clerking for U.S. District Judge Lawrence Lydick, he joined CIR in 1996.

Curt A. Levey (J.D., Harvard Law School, 1997; M.S., Brown University, 1987; B.A., Brown University, 1984) is CIR's Director of Legal and Public Affairs. Formerly a clerk with Judge Richard Suhrheinrich of the U.S. Court of Appeals for the 6th Circuit, he joined CIR in 1998.

Silvio A. Krvaric (J.D., Santa Clara University, 2000; B.A., Vesalius College, 1996) is CIR's Associate Counsel. After clerking for the AIDS Legal Services at the Santa Clara County Bar Association, he joined CIR in 2001.

Christine M. van den Toorn (B.A., Washington and Lee University, 2001) is CIR's Legal Assistant. She joined CIR in 2002.

N. Joy Jones (B.A., Taylor University, 1998) is CIR's Director of Development. She joined CIR in 1998.

Izora D. Whitestone is CIR's Administrative Director. She joined CIR in 1999.

Law Clerks and Interns, 2002-2003

Jon Book (University of Michigan)

Katherine Burchmore (Georgetown University Law Center)

Robyn Libow (Georgetown University Law Center)

John McNichols (University of Michigan Law School)

Anthony Sanders (University of Minnesota Law School)

Catherine Sevchenko (George Mason University School of Law)

Ollivia Sexton (Queen's University, Ontario)

**CENTER FOR
INDIVIDUAL RIGHTS**

1233 20TH STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20036
PHONE: 202.833.8400
FAX: 202.833.8410
E-MAIL: CIR@CIR-USA.ORG
WWW.CIR-USA.ORG