

Sample Page

1 of 6

Appendix B:

Methodology

The following is the methodology used in compiling the information on the ACLU in the U.S. Supreme Court:

1. The criteria for inclusion of an ACLU/U.S. Supreme Court case is when the ACLU was involved in the case when it went before the U.S. Supreme Court and the Court issued an opinion by the justices deciding the case between January 19, 1920, and January 19, 2020, (during the first 100 years of the ACLU).¹⁵

The ACLU involvement in a U.S. Supreme Court case includes when the ACLU is a party, has filed (or is on) an amicus brief, or where an ACLU attorney is Counsel of Record or involved in the U.S. Supreme Court case. Any ACLU attorney involvement includes an ACLU attorney being listed on a party's brief, whether or not the attorney's affiliation with the ACLU is noted on the brief itself.¹⁶

The ACLU attorney involvement also includes instances where the ACLU partnered with one or more outside attorneys not necessarily employed by the ACLU, but who worked with the ACLU on the case. Involvement also includes cases where the ACLU has made public statements referencing the case being an ACLU case (because the organization itself has deeper records of their involvement in cases than is necessarily available through Court documents and other public records).

¹⁵ The January 19, 1920 date comes from Samuel Walker's book "In Defense of American Liberties: A History of the ACLU."

¹⁶ Attorney *involvement* includes an ACLU attorney who was noted in the U.S. Supreme Court brief but who may not have been noted as being affiliated with the ACLU. For example, Osmond K. Fraenkel, ACLU chief counsel 1954 to 1977; Melvin Wulf, ACLU legal director 1962 to 1977; or Steven R. Shapiro, ACLU associate legal director 1987 to 1993 and legal director 1993 to 2016, were listed on a party's brief before the U.S. Supreme Court, even though their ACLU affiliation was not always mentioned on the brief itself.