

NEVADA LIBERTY NEWS

ACLU of Nevada
Newsletter
Fall 2007



WWW.ACLUNV.ORG

A Message from the Executive Director

I hope this letter finds all of you well – and well informed about all of the work we have been doing to defend civil liberties and civil rights since we sent out our last newsletter. We have been fighting hard for fundamental rights through legislative advocacy, public education, litigation, and old-fashioned organizing, and we've been extraordinarily effective on all of these fronts.

Perhaps the most exciting news in terms of our continued growth is the impending move of Lee Rowland, our Staff Attorney in Las Vegas, to the Reno office to assume the position of Northern Coordinator there. We will be hiring a Public Advocate and Office Administrator to work with Lee to build the northern program to new and unprecedented levels. Given how remarkably successful she has been in the two years since coming to Las Vegas, I have no doubt that folks in the north can expect to see our profile and our effectiveness grow in the coming months and years. We also continue to build the Las Vegas office. We are very excited to have recently added Maggie McLetchie, a new and remarkably talented Staff Attorney, and Phil Hooper, an equally exceptional new Office Manager in the south. You'll hear more about them in future newsletters!

Despite all the positive news, it is more true than ever that we face immense challenges in protecting our constitutional and other legal rights in these most challenging times. Without the support of our members, financial and otherwise, we would be unable to continue to expand programmatically and organizationally to do our job as successfully as possible. With that in mind, we hope that as you read this letter you are moved to lend whatever support you can to help build the Nevada ACLU by donating your time or your money to our common cause. If so, you may contact us at 702.366.1226 or at aclunv@aclunv.org.

Regards,
Gary Peck, E.D.

Victory Round-up:

A Few of the ACLU of Nevada's Recent Court Victories



Sacco v. Las Vegas

In this case, the ACLU challenged a number of Las Vegas ordinances restricting the use of public parks, including one ordinance that prohibited sharing food with people in any park who "looked indigent." We challenged this ordinance almost immediately after the Las Vegas City Council passed it, believing it to be vague, and in violation of the Constitution's guarantee of Equal Protection by discriminating against poor individuals. In January, a federal judge granted our request for a Preliminary Injunction, which ordered the City to stop enforcing this unconstitutional law. We are awaiting a final decision on other related pieces of this case, but the judge has been clear that his Preliminary Injunction finding this ordinance unconstitutional will be made permanent.

Coyote Press v. Heller

The ACLU of Nevada challenged a state law banning the advertising of legal brothels in any county where brothels are illegal. We argued that this restriction violated the First Amendment, which allows the prohibition of commercial speech only when that speech is misleading. State and county officials argued that ads for legal brothels would mislead adults into seeking out illegal prostitutes in Clark and Washoe counties. In contrast, Allen Lichtenstein successfully argued that giving people more information about legalized prostitution is the opposite of misleading: it simply tells people *where* prostitution is legal, much like out-of-state advertisements inform tourists that gambling is legal in Nevada. The federal District Court judge agreed with the ACLU and struck down this state law in July.

SOC v. Clark County

We scored a final victory in this decade-long case, in which we challenged restrictions on leafleting in Clark County. Although the County passed a revised ordinance during the case, the new language still required law enforcement officials to read leaflets in order to determine whether they were "primarily proposing a commercial transaction." We argued that the 'revised' anti-handbilling ordinance still suffered from the same constitutional defects as the original ordinance, because it prohibited protected speech in any publication with commercial content – such as a newspaper with an extensive Classified section – and allowed police to selectively enforce the law based on content.

ACLU v. Las Vegas

In another decade-long battle with the City of Las Vegas over its restrictions of First Amendment activity on the Fremont Street pedestrian mall, the ACLU of Nevada finally succeeded on its last remaining claims from the original case. The Ninth Circuit held that a ban on all solicitation (begging or asking for money, charity, or business) in a public forum was based on the content of the speech, and therefore violated the First Amendment. The Court also held that tabling, when used for holding speech-related materials such as pamphlets, are also protected by the First Amendment. While we scored a full victory in this lengthy case, we have just returned to court to sue the City again over its new ordinances which it rewrote after this decision.

State Commission Participation: A New Phase for ACLU of Nevada

As your ACLU state affiliate matures and grows, the Nevada government as well as county and city governments increasingly look to us as natural participants in commissions and committees in such areas as criminal justice and elections. We have long been active as lobbyists in efforts to develop state and local policies—especially at the Legislature’s interim committees and regular sessions. But now we are participating as full members of some of these official groups—at the request of the Legislature, Nevada Supreme Court justices, the governor, and other state constitutional officers. This has flowed naturally from our growing roles in hearings, other meetings, media coverage, and litigation throughout the state.

Board President Richard Siegel serves as an appointed member of the new Nevada Advisory Commission on the Administration of Justice, chaired by Nevada Supreme Court Justice James Hardesty, and the Secretary of State’s Advisory Committee for the Implementation of the (Federal) Help America Vote Act of 2002. Executive Director Gary Peck is an active member of the Nevada Supreme Court Task Force on Indigent Defense, a body seeking to establish standards that will help upgrade the provision of public defender services throughout the state.

We welcome these opportunities to increase our influence in fixing problems concerning elections, criminal justice, and other policies and practices central to civil liberties and civil rights. We will continue to operate from the outside in a host of policy arenas while selectively accepting opportunities to be part of official advisory and decision-making bodies. We bear in mind at all times the need to retain our independence as an organization that negotiates with, and litigates cases against, all levels of government. Indeed, Siegel told the Commission on Justice at its first meeting, while the Director of the state’s Department of Corrections was testifying about his agency’s concerns and problems, that the ACLU of Nevada expects in the next year or two to initiate litigation concerning the inadequacy of medical and mental health services for Nevada’s prison inmates.



Staff Changes at ACLU of Nevada

Front Row: Staff Attorney Maggie McLetchie; Northern Coordinator Lee Rowland; Executive Director Gary Peck.
Back Row: General Counsel Allen Lichtenstein, Outgoing Office Manager Paige Thie, Incoming

Changes are in progress for the Nevada affiliate as we continue to grow and expand our presence in both the northern and southern regions of the state.

In early July we welcomed Maggie McLetchie to the Southern Nevada office as our newest staff attorney. Maggie is a graduate of UCLA Law School, where she was a participant in their public interest law and policy program. Maggie comes to us from the firm of Bingham McCutchen in San Francisco, where she devoted a great deal of time to pro bono work, particularly in the area of prisoners’ rights.

Staff Attorney Lee Rowland, who has been with the ACLU of Nevada since 2005, will be moving to Reno this fall to lead the northern office. We are confident that she will expand the organization’s presence in this region, and we look forward to further development of the Reno operation in the near future.

At the end of July we said farewell to Office Manager Paige Thie, who has worked with the Nevada affiliate for the past two years. Paige is beginning her first semester of law school at the University of Colorado at Boulder; she will be missed greatly!

Phil Hooper has joined the ACLU staff as the new office manager in Las Vegas. Phil is new to Nevada, having lived on the east coast for the past several years. He is thrilled to be a part of the organization’s mission to protect civil liberties statewide.

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NOMINATIONS SOUGHT FOR BOARD OF DIRECTORS

The ACLU of Nevada is governed by a Board of Directors. Each board member must also be a member of the organization. 1/3 of the board members are elected each year and the term of office is three years.

If you would like to be considered as a candidate or desire to nominate another person for this year’s election, please submit a written letter of intent with a brief biographical summary for the nominating committee’s consideration to: ACLU of Nevada Nominating Committee, 732 S. 6th St., Suite 200A, Las Vegas, NV, 89101.

To receive full consideration, all such nominations must be received by November 2nd, 2007. Nominations may also be submitted by petition. Members interested in being nominated by petition or their supporters should submit a statement of nomination signed by ten active members.

A candidate nominated by petition who provides a short statement of his/her background and qualifications will have the same information included on the ballot as those selected by the Nominating Committee.

Nominations of and by women, people of color, people living with HIV, people living with disabilities, and lesbian, gay, bisexual, and transgender individuals are strongly encouraged.

2007 Legislative Report to ACLU of Nevada Members & Donors

At each biennial session of the State Legislature your Nevada ACLU works hard to influence state priorities and policies in areas that affect your civil liberties and civil rights. 2007 was no exception.

Indeed, the ACLU's involvement at the 2007 session was exceptionally wide-ranging. We helped strengthen the state's child welfare system, shaped criminal justice bills to protect defendants' constitutional rights, and facilitated alternatives to incarceration. We also helped convince the Legislature to reject draconian measures that would have jeopardized the rights of all immigrants and allowed an end-run against reproductive freedom. The Nevada ACLU also successfully advocated for bills blocking the Real ID national identity card, protecting telephone privacy and the freedom to demonstrate, and ensuring that all citizens of Nevada have an effective right to vote.

In the majority of cases the legislature responded to the ACLU's concerns. Yet in important areas, elected officials unfortunately chose to go in other directions. These rebuffs included passing statutes that restrict the right to petition for ballot initiatives and ignore the rights of the severely mentally ill in the criminal justice system. They also failed to pass additional protections against discrimination in public accommodations based on sexual orientation.

The ACLU of Nevada places great emphasis on working to influence our state legislature for two reasons. First, the legislature has the ability to take proactive steps to protect civil liberties and civil rights in the Silver State, and we persistently encourage the legislature to do so. Second, we are vigilant in monitoring proposals to regulate the expression and actions of Nevadans, regardless of the politics or motivations behind particular proposals, to ensure our liberties are protected. It is the ACLU's role to tell the legislature when we believe a proposed bill is unconstitutional. By addressing issues at the legislative level, the Nevada ACLU also strives to help avoid unnecessary litigation.

The 2007 Nevada Legislative session ran from February to June and lasted over 120 days. The ACLU of Nevada legislative team included a number of board and staff members who testified on over 150 different bills, spoke out to the press, and reached out to individual legislators and lobbyists. This year's efforts built on forty years of our continuous advocacy in Carson City (and recently, through video testimony, in Las Vegas as well). We can now boast of the same level of professionalism in the legislative arena we have attained in our litigation and media work.

Those most involved with the legislature were ACLU of Nevada attorneys Lee Rowland and Allen Lichtenstein, Public Advocate Joe Turco, Executive Director Gary Peck, Office Manager Paige Thie, and Board members Rich Siegel, Roger Vogel, Lisa Rasmussen, Gregg Kamer, Mario de la Rosa, and Mike Haverkamp. Joe gave us for the first time a near-constant presence in the legislative building, and the team of Lisa and Lee covered many of the most difficult criminal justice bills.

This year, we had some new allies. The entire Nevada Supreme Court joined our calls for prison reform and criminal justice alternatives; school superintendents invited our attempts to devote far more state resources to public school equity; and, an emerging immigrant-rights community supported our advocacy for justice in that arena. And we worked closer than ever with the state's public defenders and the Nevada Association for Criminal Justice. We also give much credit to the many legislative leaders whose support was critical concerning the issues emphasized here.

In terms of developing and supporting legislative priorities, we felt strongly that it was vital to challenge the Governor's call to spend almost \$2 billion from 2007 to 2016 for new prison facilities, and to instead suggest lower-cost model programs that would afford the people of Nevada greater long-term personal security. Such programs include specialty mental health and drug courts and alternatives to incarceration for low-risk, non-violent offenders.

We also worked to secure open government and personal privacy, to seek protection against abuse of the rights of immigrants, to guard against efforts to suppress voting by the poor, racial minorities and legal immigrants, and to advocate for more equal educational programs. These priorities are integrally tied to our ongoing litigation, local lobbying, and public education activities. We feel confident that these priorities were well-chosen, and we are pleased that the media throughout the state gave considerable attention to our work in all of these policy areas.

How best to judge our successes and failures? The steps taken to move away from runaway incarceration were enormously important and we thank David Parks and Bill Horne for their leadership at the Legislature in this area. Although their proposals were substantially curtailed in the State Senate, the 2009 Legislature may well build on the approach that the Assembly and the ACLU endorsed, and our efforts to address incarceration issues are ongoing.

The child protection initiatives that largely passed unopposed were path-breaking, and stemmed in part from an agreement between Clark County, the ACLU, and the Youth Law Center to markedly improve staffing and policies for children in state care in the face of media reports of scandals and deaths of youngsters.

We are also very pleased with the defeats of most of the anti-immigrant bills, and especially the effort to seek photo-identification requirements that tend to suppress poor, minority, and immigrant voters. Additionally, we are glad that the legislature largely responded well to other concerns expressed about bills threatening privacy, open government and free expression.

While we would have preferred to avoid litigation, we are confident that some of our defeats will turn into victories when we challenge some of the new state laws in state and federal courts. One likely case will involve the onerous new petition requirements for state ballot questions. We will also watch carefully how the state implements such new provisions as the "Guilty but Mentally Ill" verdict and its new policy of conditional release of some of the very few people who were earlier found "Not Guilty by Reason of Insanity."

For all of the positives, we leave you on some notes of grave concern. All semblance of equal educational opportunity in Nevada is threatened as our per-student spending remains among the six lowest in the country. The results include appallingly low graduation rates for Clark County as a whole, and for minorities and poorer students throughout the state in particular.

The runaway prison budget threatens to exacerbate failures in medical and mental health services for those who are incarcerated. It will also force additional limits on funding that will worsen very seriously the availability of vital services in education, health, and transportation. And the situation of immigrants remains quite precarious, with federal raids increasing and breaking up immigrant families with roots in Nevada. Too many politicians unfortunately supported laws that will likely result in the targeting of all immigrants and racial minorities in a misguided effort to address problems – real and imagined – as

ARE YOU A CARD-CARRYING MEMBER OF THE ACLU?

If you are, please check your card's expiration date and renew your membership today with this form. If you are not a member, we invite you to join the ACLU and the ACLU of Nevada. Please complete this form and return it to the Las Vegas office: 732 South Sixth Street, Suite 200A, Las Vegas, NV 89101.



YES! I WANT TO JOIN WITH MORE THAN 550,000 AMERICANS WHO CONTRIBUTE TO THE DEFENSE OF LIBERTY. ENCLOSED IS MY CHECK TO THE ACLU FOR:

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Membership fees include 50 cents for a year's subscription to the national ACLU newsletter, Civil Liberties, and 50 cents for a year's subscription to the ACLU of Nevada affiliate newsletter. Joint membership represents two members in one household. This allows for two votes in election proceedings and gives the ACLU strength in lobbying. All ACLU membership fees and contributions to the ACLU's Defense of Liberty Fund are not tax deductible. However, contributions to the ACLU of Nevada Foundation are deductible as charitable donations for federal tax purposes.

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