

# American Civil Liberties Union of Nevada

Impact Report FY 2015-2016

# **MEET THE ACLU OF NEVADA**

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A special thanks to our interns this year: Ashley St. Clair, Patrick Caddick, Edward Popovici, Michael Viets, Jennifer Mecum, Samantha Leigh, Amanda Cuevas, Rebekah Cooper, Le Yang, Alanna Bondy, and Chuanyan (Lisa) Zhang



Current and former board members: (from left, front row) Lisa Rasmussen, Jon Wanderer, Rich Seigel, Robert Chester, Sondra Cosgrove, Patricia Vasquez, (back row) Mark Brandenburg, Rachel Anderson, Tyree Gray, Todd Eickelberger, Roger Vogel, and Robert Langford Staff: (from left) Sara Lemma, Joe Rajchel, Holly Welborn, Tamika Shauntee, Amy Rose, and Tod Story

# **Our Mission**

The ACLU of Nevada is a nonpartisan organization committed to the defense and advancement of civil liberties and civil rights for all people in Nevada. Grounded in the principles of liberty, justice, democracy, and equality, we engage in education, advocacy, and litigation on behalf of the U.S.

Constitution, the Bill of Rights, and the Nevada Constitution.



The artwork for the ACLU of Nevada's 50th was created by John Van Hamersveld

The ACLU of Nevada is an affiliate of the national ACLU, and it was founded in 1966. It is the only organization in Nevada dedicated solely to protecting the constitutional rights and liberties of every individual in the state. The ACLU of Nevada works to educate Nevadans about their civil liberties and civil rights. We hold public education events, conduct outreach to vulnerable constituencies and allies, work in coalitions, and publish reports and other materials on civil liberties. Our legal department focuses on establishing case law and policy precedents that protect or expand civil liberties and rights. The ACLU of Nevada also monitors and testifies at meetings of all levels of government, from school boards and city councils to the Nevada Legislature and executive branch offices. We support bills and regulations that limit liberty or violate the U.S. or Nevada Constitutions.

## **DEMOCRACY • EQUALITY • JUSTICE • LIBERTY**

# **Executive Summary**

In 2016, the ACLU of Nevada celebrates 50 years of standing up for the people of Nevada, and defending their civil liberties and civil rights. This impact report covers the 2015-2016 fiscal year and we are proud to report the progress we have made not only for this fiscal year, but also to mark the many achievements of the last 50 years.

Late in the summer of 2015, we filed a lawsuit to stop the State's new voucher law on the grounds that it violates Nevada's definition of church and state separation, it is unconstitutional, and it would funnel taxpayer money to private institutions, religious and otherwise, that discriminate against students and staff. The recent decision from the Nevada Supreme Court affirmed the unconstitutionality of voucher mfunding and we remain steadfast in our position that no public money should ever be spent for religious indoctrination or for state-sanctioned discrimination. Over the last fiscal year, the staff at the ACLU of Nevada has contracted and grown again to meet the demands of the work that we do and the environment in which we operate. We now have a policy director and an outreach coordinator affecting change in public policy across the state through our outreach and advocacy campaigns and initiatives. The policy department is looking ahead and planning for the 2017 session of the Nevada Legislature; we will call on every member and supporter of the ACLU of Nevada. Only together can we effectively defend our civil rights and expand our liberties.

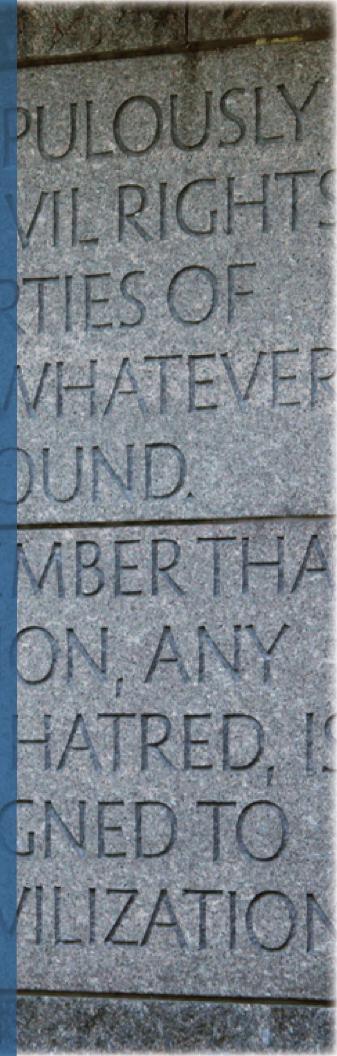
The legal team is currently researching opportunities to defend the right to counsel under the Sixth Amendment, scrutinizing the health care and treatment of the incarcerated, and ensuring Nevada complies with the 1993 National Voter Registration Act, also known as the Motor Voter law. We were fortunate to host legal interns this summer from Boyd, Harvard, and Columbia law schools and their work contributed immensely to the work of the legal department. We are very proud of what we have accomplished in fighting these 50 years to uphold the rights and liberties of Nevadans. We exist only because of you and your support; our work continues because of your commitment. Thank you for helping to ensure the rights we enjoy under the constitutions of the United States and the state of Nevada.

We look forward to serving you for another 50 years! If you did not see our 50th Anniversary video, please take a look: www.youtube. com/aclunv. I am sure you will be moved by the triumphs of people standing up for themselves when the ACLU of Nevada amplifies their voices. In Liberty,

Tod Story, executive director

And Strug





# Nevada's Guardian of Liberty Since 1966

From sixty-nine members in the first few years to well over a thousand members today, the ACLU of Nevada has been the state's "liberty bond" for fifty proud and successful years. We could not be successful without the many wonderful people who served on the ACLU of Nevada's board, those who worked for the organization, and the many individuals who gave of their time, their money, and their talents.

The organization would not be what it is today if not for the many people who placed their trust in the ACLU and allowed us to fight their cause in the name of liberty for all. Here are some of the many cases and issues from our first fifty years.

2015 The ACLUNV, with Covington & Burling, LLP., and Americans United for Separation of Church and State files properly address bullying suit to stop Nevada from implementing and to protect students

its school voucher program.

**2012** ACLUNV petitions the US Department of Justice to launch an investigation into LVMPD for disconduct, excessive use of force, and violations of the fourth amendment to the Constitution.

2006 After years of dispute between the City of Las Vegas and those wishing to exercise their First Amendment rights on Freemont street, the ACLUNV negotiated and help craft a policy to protect those wishing to utilize the Freemont Street Experience open spaces.

1991 Joined with labor partners to succesfully ban the use of polygraphs for employees.

1986 Successfully fought against law enforcement efforts to allow single party consent for the recording of telephone conversations.

1980s The ACLUNV fights to protect and defend the rights of protesters at or near the Nevada Test Site, including a successful challenge to the arrest of actor Martin Sheen.

1967-68 Americo Chiarito. Robert J.Throckmorton, Hazel Erskine, Thaddeus M. Major, Marvin Sedway, Edmund M. Smith, Don Weber, and Ulysses Woodward are among the charter members of the ACLUNV.

2014 The ACLUNV files suit to force CCSD to against harassment and

violence. 2013 The ACLUNV files a lawsuit challenging

Nevada's discriminatory 2010 "infamous crime against nature" statute.

2011 ACLUNV files suit to stop the shackling of pregnant inmates during labor.

**2008** In defense of religious liberty, the ACLUNV wins suit for religious expression in the workplace.

**2006** Suit filed against City of 2000 LV for violations of freed speech religious expression and due process violations through ordinances targeting the homeless.

1990s Protecting 1st Amendment rights on LV Strip sidewalks becomes central issue for several years.

1988-89 In two prominent cases, the ACLUNV successfully restrains two Nevada laws aimed at limiting abortion rights.

**1983** UNR political science professor James Shields is hired as the first executive director of the ACLUNV

**1972** After the suspicious death of a member of one of Nevada's native tribes while in custody, the ACLUNV teamed with the Race Relations Center and helped hold officials accountable and brought about new measures to ensure the

safety of those in custody.

1967 The ACLU of Nevada is officially chartered.

**1920** The American Civil Liberties Union is founded in New York. During its first decade, Nevada Equal Franchise Society founder and feminist leader Anne Martin, serves on the ACLU National Council.

2015 NV Supreme Court agrees with ACLUNV amicus brief arguing that consecutive life sentences for juveniles amounts to the functional equivalent of life without parole, and that this prohibition against life without parole does not annul a current inmates right to re-sentencing under 8th amendment jurisprudence.

**2013** Nevada restricted the use of solitary confinement of vouth in detention facilities statewide and banned the use of isolation as discipline or punishment.

2013 The ACLUNV files an amicus brief in a federal suit challenging Nevada's ban on same-sex marriage.

2008 Court agrees that county population rules for petition gathering violates the equal protection law in joint suit with the Marijuana Policy Project.

2008 Nevada Supreme Court strikes down presumptive certification statute that allowed prosecutors to file cases directly in adult court. The court found that the statute violated juveniles' constitutional right against self-incrimination.

**2008** A pattern of gross medical abuse in the Ely prison prompts the ACLUNV to sue after the state shows deliberate indifference to inmates in need of medical care.

1990 **1995** The NV Supreme Court declares unconstitutional ordinances that made it a crime for any felons to associate with other ex-felons, as a result of a suit filed by the ACLUNV.

**1989** Churchill County settles suit bought by ACLUNV, gaining the right for organizers to have a gay rodeo in the county.

1989 The organization moves its statewide headquarters to Las Vegas.

**1985** Dietz v. Elko County leads to new jail facilities which could handle prisoners without violating Constitutional rights such as physical conditions and medical care.

1978 The ACLUNV joins efforts with partners for passage of the Equal Rights Amendment to the US Constitution.

1980

1930

**1979** A major victory for reform of the criminal justice system was accomplished when the ACLUNV won additional rights for persons not indicted in grand jury reports, including the right not to be described as having committed a criminal act.

**1977** The ACLUNV files suit against UNR to require that facilities are accessible to the physically disabled, a first in the nation. 1970

1967-82 With no paid staff, Dean Breeze, a Las Vegas lawyer; Hazel Erskine, a national expert on public opinion; and UNR political scientists Elmer Rusco and Richard Siegel shepherded the organization in these founding years.

1960 1966-67 The ACLU of Nevada is organized in Reno under the leadership of UNR professor Jack Forbes and UNR librarian Americo Chiarito.

**1930s** Reno attorney and socialist Martin Scanlan serves as the ACLU correspondent for Nevada.

## Upholding Right Against Wrong Our legal and public policy work

Protecting the free speech and expression of all Nevadans, holding the state accountable for meeting its obligations under the National Voter Registration Act, protecting the privacy, dignity, and health of vulnerable inmates, and making sure a voucher scheme that would erode the wall between church and state was never enacted are iust some of the issues that have kept our legal team busy this year. Our legal team spearheaded and participated in advocacy and outreach in the community to empower Nevadans with the information and tools needed so

that everyone can take part in defending their rights, advocate for themselves and others, and protect all that we have fought so hard to achieve. This work includes presentations, community workshops, and classes on the restoration of civil rights for the formerly incarcerated, the rights of transgender people, Miranda rights, reforming mandatory minimum sentencing, election protection at the polls, and continuing legal education on LGBTQ state and federal protections.

Ongoing policy work is conducted throughout the year as members of the ACLU of Nevada work on various committees and boards to ensure that civil liberties and rights remain a primary concern when crafting public policy. Some of these committees include: The Reno Police Impact Panel, Advisory Council on the Administration of Justice, the Sex Education Advisory Committee, Solitary Reform Coalition, Reno Race Symposium planning committee, and the Indigent Defense Commission.



### Following Through for Liberty

Passing good legislation is only half the battle. The ACLU of Nevada monitors and participates in the implementation of laws so that Nevadans will benefit from good public policy. Some of the ongoing, year round work includes:

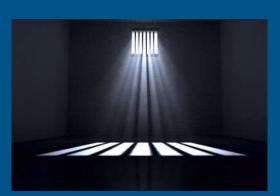
- The use of body cameras for police officers
- Working with state officials to ensure compliance with the

Nevada Voter Registration Act

- Ending the practice of sentencing juveniles to life in prison without the possibility of parole
- Ending the practice of solitary confinement for juveniles
- Monitoring public meetings to ensure openess and accountability at 24 legislative and administrative, 26 municipal, and 17 school district meetings

## **Informing Public Policy with Reason**

In response to the state's insufficient study on the use of solitary confinement in our prisons, the ACLU of Nevada undertook its own study to determine the demographics, length of confinement, and the presence of physical or mental health conditions. Through our survey, we are letting the inmates tell their own stories. The survey, to be released prior to the 2017 legislative session, will inform better policy and provide a rational basis for eliminating solitary confinement for youth and others in the system. In all, 281 persons in restrictive housing at institutions throughout Nevada completed the survey, the highest response rate of any affiliate in the nation conducting similar surveys.



## The National Voter Registration Act Ensuring the Promise to Nevada's Voters

The National Voter Registration Act (NVRA) of 1993, sought to reduce registration barriers for citizens. while substantially increasing voter registration. For 23 vears. Nevada was out of compliance, instead erecting unnecessary obstacles to voter registration. In March of 2016, the ACLU of Nevada notified the Nevada Secretary of State regarding Nevada's systemic and ongoing violations of the NVRA.

Nevada's voter registration rate is fifth to last in the nation. Overall, only 58.5% of eligible Nevadans are currently registered to vote. While the state has fallen short of its obligations under the NVRA, The League of Women Voters of Nevada (LWVN) and other similarly situated groups must spend significant time and resources to register people who should otherwise have been registered through contact with the Nevada Department of Motor Vehicles (DMV).



The ACLU of Nevada exposed Nevada's failure to meet the obligations of the NVRA because: (1) DMV applications did not serve as voter registration applications,

Congress enacted the National Voter Registration Act of 1993, to expand voter registration opportunities for every American. That law requires states to provide the opportunity to apply to register to vote for federal elections by three additional means: 1. States must provide individuals with the <u>opportunity to register to</u> vote at the same time that they apply for a driver's license or seek to renew a driver's license, and requires the State to forward the completed application to the registrar of voters. 2. States must offer voter registration opportunities at all government offices that provide public assistance and all offices that provide and instead individuals were required to fill out a separate standalone voter registration form; (2) a change of address at the DMV did not serve to update a voter's registration application; and (3) the DMV did not properly submit voter information to the appropriate election officials on a timely basis.

After negotiations with the ACLUNV in September of 2016, the DMV introduced the newly agreed upon forms for customer use, which will make registration significantly easier. These forms will remain in use until the DMV computer systems are upgraded. The ACLU of Nevada continues to work with Nevada officials and will continue monitoring the state's compliance with the NVRA/Motor Voter law and safeguarding the fundamental right to vote.

state-funded programs primarily engaged in providing services to persons with disabilities. Each applicant must be provided with a voter registration form or a declination form. 3. Citizens must be allowed to register to vote by mail using mail-in-forms developed by each state and the Election Assistance Commission.

# Ending HIV Stigmatization in Nevada Prisons

The Civilisation of a society is revealed by entering its prisons -Dostoyevsky

A 2016 review by the U.S. Department of Justice found the Nevada Department of Corrections to be in violation of Title II of the Americans with disabilities Act for the following reasons:

 Segregating inmates with HIV pursuant to the NDOC's "House Alike / House Alone" policy, which directs NDOC facilities not to house inmates with HIV in the same cells as inmates who do not have HIV;

2. Denying inmates with HIV equal employment opportunities through which they could earn credits to reduce the lengths of their sentences; and

3. Denying inmates with disabilities, including those with mobility disabilities, HIV, or certain other medical or mental health conditions, equal opportunities to benefit from the services, programs, and activities offered by the NDOC's conservation camps and transitional-housing facilities—including the opportunity to earn substantial credits to reduce the lengths of their sentences.

There are ethical, social, and public health reasons for meeting the medical and health needs of the incarcertated. The United States is also constitutionally oblighated to do so under the 8th Amendment. In its Estelle v. Gamble decision in 1976, the Supreme Court established that deprivation of health care constituted cruel and unusual punishment. In Nevada, an additional barrier was placed on those with HIV within the prison system. The Nevada Department of Corrections instituted a policy to segregate HIV positive inmates, placing them alone or placing them in a cell with other inmates also known to be HIV positive. Sadly, this

policy was known as HAHA, (House Alike, House Alone). The ACLU of Nevada initiated a dialogue with the Department of Corrections and was successful in having the policy eliminated. The segregation and discrimination of HIV+ inmates is inhumane, degrading, constitutes cruel and unusual punishment, and is a violation of international law. The HIV status of an inmate and the subsequent isolation will determine nearly every aspect of that inmates life during their prison term. Where they are housed, eat, sleep, exercise, work, earn wages, receive time for good behavior, and access to other programs utilized by those not in segregation. The HAHA policy

also involuntarily disclosed the person's status to their family and other visitors, to prison staff, and to other inmates, violating the right to privacy and confidentiality as well as increasing discrimination. We are pround of the progress we have made in highlighting and changing policies that violate the guaranteed liberties of those we incarcerate. While this horrible policy has come to an end, there are still issues regarding inmates' access to medical care and use of medical devices and medication. The ACLU of Nevada continues to work with the DOC and we will follow through until all of these issues are resolved satisfactorily.

# Fortifying the Mortar in the Wall Between Church and State

The framers of the Constitution were adamant that a public education would be a cornerstone of our republic, that it was critical for any democracy, that it should be equally available to all, that it should be free from religion and ideology, that it must remain public, and that any expenditure for its purposes was worth the cost. Along with the establishment clause in the Constitution, one could not ask for clearer intent.

"...let the matter of religious teaching to the family altar, the church, and the private school, supported entirely by private contribution. Keep church and state forever separate." -Ulysses S. Grant



135 years ago the people of Nevada voted to separate church and state by specifically adding to the Nevada Constitution, the requirement that "No public funds of any kind or character whatever, State, County or Municipal, shall be used for sectarian purposes." This became Article 11 Section 10 of the Nevada Constitution. But since we filed our lawsuit Duncan v. Nevada on August 27, we have seen and heard all manner of criticism from those who believe obtaining a voucher card from the state will set them free from the shackles of public education, and thus are willing to throw the mandates and protections of the Nevada Constitution aside. But. as we stated when announcing the lawsuit: Parents are free to choose whether their children attend public or private schools in Nevada, but if a parent chooses to send their child to a private religious school, the Nevada Constitution prohibits them

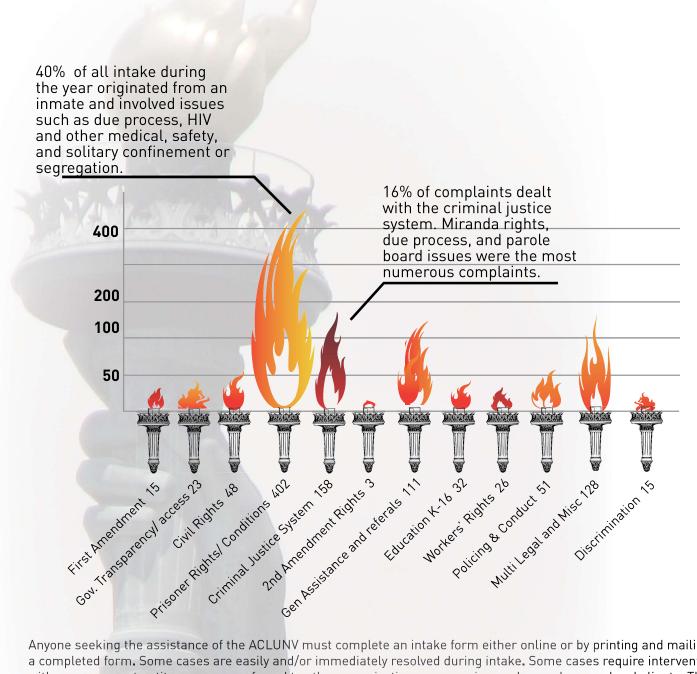
from doing so at taxpayers' expense. The State's estimated \$5,100 average amount per child is reached by calculating the portion of state taxes we all pay (children or not) for public education When a voucher card is issued, it will be loaded up with the tax money we all pay to guarantee every child's access to a public education. Parents who choose to send their children to private schools (parochial or not) forgo the guaranteed public education and those dollars allocated for their children—until this year. With SB 302, anti-public education forces finally succeeded in passing a law that diverted public education funding in Nevada. The authors and supporters of SB 302 respond with indignation that we at the ACLU would dare challenge their voucher card scheme to funnel public money to private parochial schools. Simply, the State should not fund religious education and indoctrination. This

is exactly why we filed suit to stop this unconstitutional violation impinging on the separation of church and state. Even the sponsors knew this when they exempted SB 302 from the statute that mirrors the Constitutional prohibition. Not surprisingly, the same sponsors of SB 302 failed in 2013 to repeal the section of the Nevada Constitution that forbade this voucher program. If the language in this voucher law is so airtight, so obvious, and so sacrosanct, why exempt it from statute and attempt to amend the Constitution to make it work? and why we at the ACLU had to do something about it. Religious liberty is a civil liberty. No one's religious liberties are challenged by our lawsuit. Rather, the civil liberties of those who oppose funneling State money to religious schools are violated when the State supports religion with their tax dollars.

# Who Needs the ACLU of Nevada?

**The Taking of Liberties** 

Over the last year, the ACLU of Nevada processed 1012 intake cases from people throughout the state. The majority of complaints about violations and encroachments on civil liberties again came from the state's most vulnerable populations, namely those incarcerated or entangled in the U.S. criminal justice system.



Anyone seeking the assistance of the ACLUNV must complete an intake form either online or by printing and mailing a completed form. Some cases are easily and/or immediately resolved during intake. Some cases require intervention with a government entity, some are referred to other organizations or agencies, and some become legal clients. The completed intake forms received by the ACLUNV for FY 2015-2016 are categorized broadly for purposes of this report as there are too many unique issues for full representation here.

# Liberty in Community

The ACLU of Nevada in Action



**12%** The increase in the number of Nevadans taking action as a result of an ACLUNV action alert message



**13,300** Supporters who answered the call to action on at least one ACLU of Nevada email action alert

**2000** During this past fiscal year, the ACLU of Nevada has held or participated in 34 community events; almost 3 outreach events per month. These events were attended by nearly 2000 people in total



**16** The number out of Nevada's 17 counties in which the ACLU of Nevada had a presence or held a community event



**752** The number of hours worked by ACLU of Nevada volunteers this past year



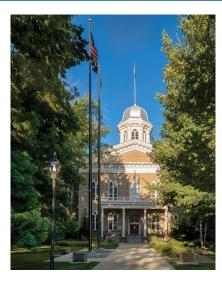
**79** The number of state and national organizations with which the ACLU of Nevada partnered to advance civil liberties in the Silver State

# Partners in Liberty

The accomplishments which we celebrate at the ACLU of Nevada would not be as numerous or as frequent without the hard work and deep commitment of the people and organizations we are proud to call our partners in liberty: Americans United, Covington & Burling, LLP., Nevada Teen Health and Safety Coalition, Nevada Immigrant Coalition, Transgender Allies Group, Progressive Leadership Alliance of Nevada, Nevada Interfaith Coalition for Equality and Inclusion, Mi Familia Vota, NAACP Reno-Sparks, Guiding a New Generation, Alternatives to Violence Program, UNR School of Social Work, Statewide Native American Coalition, My Journey Home Inc, Be the Change, Immunize Nevada, Voices for Planned Parenthood (VOX) at UNR, Nevada Disability Advocacy and Law Center, Reno Area Alliance for the Homeless, Fused at UNR, Catholic Charities, Nevada Coalition for the Fair Sentencing of Youth, Campaign for the Fair Sentencing of Youth, Ridge House, Lutheran Episcopalian Alliance Network, Silver State Voices, Battle Born Progress, Human Services Network, Reno Justice Coalition at UNR, Sex Workers Outreach Project, Youth Advocate Programs, Empowerment Center Nevada, The YOU/ Eddy House, Rainshadow Charter School Art Department, Washoe County SHARE Program, PFLAG Latino Student Advisory Board, Build Our Center, Nevada Advocates for Planned Parenthood Affiliates, Planned Parenthood Mar Monte, Northern Nevada Hopes, Unitarian Universalists Northern Nevada, UNR Department of Criminal Justice, Prison Recovery Network, APAI Nevada, Safe Embrace, RISE, ACTIONN, Latino Leaders Roundtable, The Center Las Vegas, Nevada Youth Empowerment Project, UNR Center for Student Cultural Diversity, National Juvenile Justice Network, Inter Tribal Council of Nevada, Fraternity and Sorority Life at UNR, Crossroads Halfway House, Silver Nevada, State Fair Housing Council, 1450 AM Radio, Planned Parenthood Rocky Mountains, Young Americans for Liberty, Nevada Cure, Federal Public Defenders, Holland Project, Northern Nevada International Center, Northern Nevada Latino Alliance, Advocates for Youth, Southern Nevada Health District, Grassroots Books, Northern Nevada Outreach Team, Boyd School of Law, McGeorge School of Law, Ridge House, Let Nevadans Vote Coalition, Human Rights Campaign, Gender Justice, Boys/Girls State, Clark County Public Defenders, Children's Advocacy Alliance, Chief's Impact Panel, The League of Women Voters

## The Year Ahead Ongoing Vigilance and Upcoming Opportunities

The ACLU of Nevada, the national ACLU, and our allies over the years have created an ever-expanding body of law which forestalls many violations of civil liberties, often without notice. We seek to establish broad protections through our litigation efforts so that it is sufficient for us to remind officials that the legal basis already exists in order for us to end or change a policy that is hostile to civil liberty. Much of our work also involves educating and informing officials through meetings and participation in the committees on which the staff and board of the ACLUNV sit. Many times, cases are settled in our favor with little attention. Other times, the mere threat of litigation achieves our goal. We consider these situations true victories as well. While you may not hear about it, know that we are always looking out for the people of Nevada.



### Government Transparency

We will work to update government transparency laws in Nevada and to ensure that laws are followed at all levels of government. Transparency promotes accountability and increases public participation in the governing process. Liberty is best protected not when government is weak, but when it is accountable.



adhere to the open meeting law



public access to information



no public subsidies without public scrutiny



no gag orders on public employees





## **Sex Education**

Our students have the right to live healthy lives and we have an obligation to provide them with information to do just that. Providing outdated information or denying students information is a diservice. The ACLU of Nevada will continue to work with students, parents, teachers, and administrators so that students have the best education for their health and well-being.



Medically accurate and factual



culturally competent

opt-out system for parents and guardians

## **Juvenile Justice**

Young minds are still developing and should be given opportunities for treatment, rehabilitation, and positive reinforcement. Ending excessive sentences and extreme punishments is paramount to protecting young people in the juvenile justice system. We are also committed to eliminating sentencing disparities between youth of color, especially young black men, and their white counterparts



inclusive juvenile offenders bill of rights



end the use of solitary confinement for juveniles

end racial disparities in sentencing



end life sentences without parole

# FINANCIAL STATEMENTS

Revenue	<u>Amount</u>
Net Event Revenue	\$6,625
Attorney Fees	\$1,977
National ACLU Support	\$248,492
Grants and Contributions	\$228,237
Administrative and Service Fees	\$6,000
Foundation Grants	\$46,000
Interest and Dividend Income	\$31,502
From Reserves	\$255,815
TOTAL	\$824,648
Expense	<u>Amount</u>
Direct Program Costs*	\$354,174
Litigation and Professional Fees	\$83,720
Allowed Lobbying Costs*	\$754
Admin/Operational Overhead*	\$121,874
Payroll Taxes and Benefits	\$116,344
Program Services and Support	\$136,467
TOTAL	\$813,333
*includes an allocated % of salaries	



### AMERICAN CIVIL LIBERTIES UNION

of NEVADA



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