

ACLU NEWS

American Civil Liberties Union of Nebraska

SUMMER 2019

VICTORY

HISTORIC SCHOOL POLICE REFORM ADOPTED

About 40 Nebraska school districts have a permanent police presence. School police programs exacerbate the school-to-prison pipeline for all students, with disproportionate impacts for students of color and students with disabilities. We launched an in-depth legal and policy investigation and found shocking disparities in the data, heart-wrenching stories from parents and students, and an incredible lack of uniformity for police training and safeguards in place to protect students' civil rights. In far too many schools across Nebraska, vulnerable kids engaged in typical adolescent behavior are facing unnecessary criminal justice consequences.

In response to our groundbreaking report, *From the Classroom to the Courtroom*, Senator Patty Pansing Brooks and Senator Ernie Chambers introduced legislation to end or reform school police programs.

Senator Pansing Brooks' bill to reform school police programs was signed into law by Governor Ricketts this year. Much work remains to be done on ensuring students' rights, disability rights, and racial justice in our schools, but this is a critical first step to dismantling the school-to-prison pipeline and enhancing educational opportunity for all Nebraska kids.

ABORTION RIGHTS ATTACKED & TITLE X VICTORY

While a string of radical abortion bans swept through Midwest and Southern legislatures and a few of our sister states fortified important firewalls to protect abortion care, the Nebraska Legislature took one giant leap forward and at least one step back on reproductive rights in 2019.

Thanks to an innovative, private-public partnership, the Nebraska Family Planning Council won the life-saving Title X grant to restore bias free health care to thousands of low-income and rural Nebraskans after last year's budget debacle. Win!

In other news, the Nebraska Legislature adopted a modified version of a so-called "abortion reversal" law, which seeks to shame women with biased counseling, raising deep concerns from a free speech and reproductive freedom perspective. The ACLU is leading the way on monitoring the implementation of this suspect legislation and just published *Bad Medicine: States Force Doctors to Refer Abortion Patients to Google—The Truth About Medication Abortion Reversal Laws*.

Media reports make clear that Nebraska state senators are exploring an abortion ban for

Nebraska in 2020. We are wasting no time preparing a robust defensive strategy and will be ready, but we need your help to continue the fight.



Photo: 500+ local activists took to the Capitol in support of abortion rights in May

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TRANSNEBRASKA.ORG
LAUNCHED

This month the ACLU of Nebraska launched **transNebraska.org**, a website to empower transgender and gender nonconforming Nebraskans to know and understand their rights. It is a comprehensive, state-specific collection of legal, political and community resources.

UNO's Dr. Jay Irwin said of the project, "The ACLU continues to be a leader in LGBTQ+ inclusion with this new initiative. This website is bringing desperately needed resources and attention to Nebraska's gender diverse communities."

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- ACTIVIST TRAINING
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A MESSAGE FROM OUR EXECUTIVE DIRECTOR



As a lifelong Nebraskan, there are countless things I cherish about this special state, including the inherent beauty of the Great Plains, the diverse tapestry of my neighbors, and the fact that we have the opportunity to enjoy all four charming seasons. After a particularly long cold winter and devastating floods, the brilliant

Nebraska sunshine and the vibrant innumerable shades of green in our landscapes are welcome and restorative.

I hope you enjoy reading our newsletter and learning more about the incredible work of our talented team who are scoring victories for civil rights and civil liberties during the long legislative session, through our complex litigation, and by empowering communities to know and breathe life into their constitutional rights.

In the first few months of 2019, we ended human rights abuses for vulnerable Nebraskans languishing in solitary confinement throughout our crisis-riddled prison system; we scored an important initial victory for racial justice and disability rights by establishing safeguards for school police programs; we led an impressive rally filling the Capitol rotunda in support of abortion rights; we are fighting active cases on the death penalty; we won a legal victory for peaceful free expression; and secured a federal court decision in support of marriage rights for incarcerated Nebraskans. These victories belong to you and to all Nebraskans. Thank you for sticking with us as we dare to create a more perfect union.

We are criss-crossing Nebraska this summer in our annual Freedom Tour with stops at Pride celebrations in Lincoln, Hastings, Omaha and Scottsbluff; Juneteenth in Lincoln, our annual meeting and activist training in Lincoln; Know Your Rights with ICE trainings in South Sioux City, and a regular board meeting and member mixer in Central City.

I know the last few years have been a breathless and relentless attack on our civil rights and civil liberties. Nevertheless, we persisted, we resisted, and we are achieving important progress. Thanks to your support and invigorated activism our beautiful Nebraska is more free and fair today. Rest assured the ACLU of Nebraska will never stop fighting until the rights of all Nebraskans are respected by all Nebraskans.

In friendship and freedom,

Danielle Conrad, J.D.
Executive Director

WAR ON IMMIGRANTS IN DAKOTA COUNTY

The Dakota County Sheriff's office renewed its 287(g) agreement with the Department of Homeland Security to enforce federal immigration law in June. This agreement has authorized the sheriff's office to commence immigration investigations or choose to begin deportation proceedings for individuals they detain. The Dakota County Sheriff has already started immigration investigations on 25 individuals, six of whom were ultimately removed from the country. Dakota County Sheriff Chris Kleinberg joined this program voluntarily. He is the only sheriff to do so in Nebraska.

Our sheriff should serve us, not ICE.

Tell Sheriff Kleinberg to **stop** immigration enforcement and **focus on Dakota County.**

(402) 494-7555 ckleinberg@dakotacosherriff.com

For more info: stop287g.com



The ACLU of Nebraska, in partnership with Unity in Action and other organizations, has been actively opposing and monitoring the implementation of this suspect program. In other jurisdictions, the program has resulted in costly lawsuits, increased taxpayer burdens, racial profiling and strained community relations, which hurt our shared public safety goals. To learn more and support our efforts to disentangle Dakota County from ICE operations, visit stop287g.com.



ANNUAL MEETING & ACTIVIST TRAINING

Nearly 100 supporters met in Lincoln on June 22 for our annual meeting and activist training. Workshops included: Know Your Rights with Police, Advocacy Tips & Tricks in the Legislative Arena, How to Be a Legal Observer at Protests & Rallies, and Effective Activism for Traditional & Social Media.

These 2019 award winners were honored: Unity in Action received the Roger Baldwin Civil Libertarians of the Year Award; Sen. Patty Pansing Brooks received the Defender of the Bill of Rights Award; and Beatty Brasch received the Robert M. Spire Founders Service Award.

SOLITARY CONFINEMENT BAN FOR VULNERABLE PEOPLE

In the final days of the 2019 session, the Nebraska Legislature passed LB 686, an omnibus bill to reform various aspects of Nebraska's broken criminal justice system.

From a human rights and civil liberties perspective, the most important change in this reform package is a ban on the use of solitary confinement for vulnerable prisoners. Under the new law, vulnerable prisoners include those who are under age 19, pregnant, have been diagnosed with a serious mental illness, developmental disability, or a traumatic brain injury.

The ACLU of Nebraska has led a years-long campaign against Nebraska's overuse of solitary confinement. The psychological effects of prolonged solitary confinement have been well-

established and clearly illustrate that placing individuals in solitary confinement causes irreparable psychological damage. We know that the effects of solitary confinement are particularly pronounced for young people, whose brains are still developing, and individuals with preexisting mental illnesses.

While this legislation is a positive step in the right direction, more reform is needed. For one, the new law applies only to those in the Nebraska Department of Corrections. This means that young people in the state's juvenile system are still being subjected to lengthy, damaging isolation.

We will diligently monitor the implementation of the new law to ensure

that real changes are made and will continue to push for further reform so that no young Nebraskans have to languish in isolation that causes a lifetime of negative consequences both for the individual and society at large.

VICTORY!

These vulnerable Nebraskans can no longer be held in solitary confinement in our prisons:

- ☑ people with mental illness
- ☑ people with disabilities
- ☑ young people
- ☑ pregnant women

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PRISON OVERCROWDING & CONDITIONS LAWSUIT UPDATE

In early July, we presented final filings in federal court documenting system-wide failings across all Nebraska prisons in support of our efforts to secure class action status in this historic case. The documents paint a chilling picture. Our team was granted access behind prison walls by the court to conduct further investigations with our expert witnesses.

The experts presented the court with evidence based on their in-person interviews with men and women in solitary confinement, touring facilities, reviewing files, and reviewing policies and procedures related to health care, mental health care, and accommodations for prisoners living with disabilities. They recount talking to prisoners in the middle of a psychotic break, observing prisoners with visible scarring from suicide attempts, and listening to Nebraskans begging for mental health care while in solitary confinement for 23 hours a day.

Lifting up the voices of incarcerated Nebraskans alongside detailed reports from renowned experts, we've provided clear, compelling evidence that all

prisoners are at a significant risk of harm from the current conditions in our state prisons and Nebraska officials are deliberately indifferent. Here are a few examples:

- Abnormal results from a Pap smear were not reviewed until two months after an initial test—an unreasonably long delay—and a follow-up test was performed three months later, at which time a pre-cancerous lesion was found and treated.
- A plaintiff had pain in her left chest radiating to her left arm—a pain that is very typically caused by heart damage—but the nurse forced the patient to walk to the medical unit, causing unnecessary pain and risk. Later, the Department realized how serious her condition was and required immediate evacuation to the hospital by ambulance.
- A plaintiff had submitted requests for treatment but was not seen by the dental office for 196 days and was not provided fillings until 266 days later. Ultimately, multiple

teeth had to be pulled due to the progression of untreated cavities. Another class member asked for wisdom teeth treatment but was not seen by a dentist for at least 104 days for a painful condition. And another Nebraskan in solitary asked for treatment for a painful chipped tooth, but it wasn't treated in a timely manner, causing 22 days of gratuitous pain.

- There have been two more prisoner suicides since our initial class certification filing in February 2019.

Now it's up to the federal court to decide whether we proceed to trial in March 2020 as a class representing all 5,500 Nebraskans incarcerated in state prisons.

In closing, one of the prisoners we've been working with wrote to tell us this, "Every time there's a story on the news about this case, we all shout up and down the gallery to let everyone else know to tune in. We're so used to being forgotten, that it's just incredible to realize that anyone cares. Thank you to everyone making an effort for us."

NEBRASKA LOSES CIVIL RIGHTS ACTIVIST



J. Eileen Durgin-Clinchard (lower left) at State Capitol rally

This summer we said goodbye to long-time ACLU of Nebraska leader and social justice champion J. Eileen Durgin-Clinchard. Eileen passed away due to complications from pneumonia at the age of 88. Her activism has left an incredible impact on Nebraska and her beautiful legacy will continue to inspire us to make Nebraska more fair and more free.

NEW REPORT: RACIAL BIAS IN TRAFFIC STOPS

The Nebraska Crime Commission recently published its annual *Traffic Stops in Nebraska* report, which outlines disparities in traffic stops, searches, and arrests. The data showed racial disparities in traffic stops, searches, and arrests continue to grow throughout the state. We followed up to learn what law enforcement agencies are doing to end racial profiling and are releasing a report, *Ensuring Equality Before the Stop*, detailing law enforcement's efforts to combat racial profiling in July 2019.

While some Nebraska law enforcement agencies have made an earnest effort to address racial profiling by adopting a racial profiling policy and having some staff attend anti-bias training, the reality is that the efforts made thus far have not made a meaningful reduction in the racial disparities in traffic stops.

Our report highlights innovative strategies that Nebraska law enforcement agencies should explore to address these persistent and unfair disparities in traffic stops and to combat racial profiling.



LEGACY CHALLENGE

Your support of the ACLU reflects your values: a passion for justice and equality and a desire to make a lasting difference.

For a limited time, the Crankstart Foundation has issued a planned gift challenge to all ACLU supporters. If you include the ACLU in your will, trust, or beneficiary designation, you can generate matching funds to help defend our rights and freedoms today while supporting civil liberties for future generations.

Tell us about your future gift at aclu.org/jointhechallenge by contacting our Development Director Allie Curttright at (402) 476-8091x107, or call the ACLU National Gift Planning Office at (877) 876-1025.

The ACLU of Nebraska is a proud member of the Community Services Fund workplace giving campaign. Defend civil rights and civil liberties with payroll deduction while you work!

