

NEVADA LIBERTY NEWS

ACLU of Nevada
Newsletter

Winter 2006



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40TH ANNIVERSARY CELEBRATED

By ROGER VOGEL, BOARD SECRETARY

Nevada's ACLU affiliate is currently celebrating its fortieth anniversary. Created by community leaders in Northern and Southern Nevada in 1966, it was a time of national and statewide political and social turmoil when the State Bar and the university faculties were expanding rapidly and becoming more diverse.

We have grown to be the most prominent organization in Nevada dealing primarily with civil liberties and civil rights. The ACLU of Nevada handles a growing array of contentious issues and is increasingly effective in its efforts to protect the rights of all Nevadans at the Legislature, in the courts, and through the media. We have also expanded our capacity to work with the larger ACLU family to protect civil liberties during a time of grave threat to all of our rights. Between 1966 and 1988 the organization was based in Reno, with a major part of the leadership core consisting of University of Nevada, Reno faculty members. There was no law school in the state for much of that time, and the UNR

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POLICE SHOOTINGS AT ISSUE: THE SUAVE LOPEZ CASE

By GARY PECK, EXECUTIVE DIRECTOR

Thus far this year in the Las Vegas Valley 24 officer-involved shootings and 12 fatalities involving police use-of-force have been examined by the Clark County coroner's inquest system.

These numbers are disturbingly high and cannot be explained simply by noting that Las Vegas is a "different kind of 24-hour tourist town", and that many people carry guns, fail to obey officers, and behave violently. Other cities are similarly "different" but have had fewer police shootings and deadly skirmishes. Unfortunately, the Clark County coroner's inquest process is ill-suited to objectively unearth the facts relating to officer-involved deaths. It is also unable to provide a roadmap that could help the police avoid putting themselves and the public in life-threatening situations. That is because coroner's inquests do not permit meaningful challenges that might counter statements of officers who have reason to consciously or subconsciously

cast their actions in a light most favorable to themselves.

The problems plaguing the inquest process are apparent. Scores have been conducted, routinely resulting in findings that officers' actions were justified. But too frequently important questions are left unasked and unanswered. The validity of inquest findings is therefore suspect, even when the officer should be cleared.

One problem is that case preparation is left to the district attorney's office,

which works so closely with the police that its ability to test officers' accounts is compromised even when

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NEWSFLASH!



VICTORY FOR FREE SPEECH

OCTOBER 20—The Ninth Circuit Court of Appeals issued a fabulous decision in our favor in the case of *ACLU of Nevada v. City of Las Vegas*. We brought this case to challenge Las Vegas' privatization of once-public streets and sidewalks at the Fremont Street Experience in downtown Las Vegas. Throughout this case the federal appeals court has consistently upheld free speech principles, recognizing that traditional public spaces are crucial to a well-functioning democracy.

With its most recent decision, the Court has reaffirmed that solicitation – in the form of handing out ACLU literature and membership forms – is a part of this free speech tradition. It also ruled that an Equal Protection claim, like the one in our case that challenged an exception in the city's ordinance allowing only labor unions to use tables, gets additional scrutiny from the Court when First Amendment freedoms are involved. These rulings are crucial for free speech rights, as they prevent the government from picking and choosing which types of speech, or which

types of speakers, are 'acceptable' in a public forum. In a place like Las Vegas, where public property is often a Mecca of commerce, it is especially important not to allow the government to allow only speech considered good for business.

What is most important about this case is that the Court recognized the realities of an ever-privatizing world, writing: "If this trend of privatization continues – and we have no reason to doubt that it will – citizens will find it increasingly difficult to exercise their First Amendment rights to free speech, as the fora where expressive activities dwindle."

The ability to voice our opinions and to access the public space in which to do so are two of the most critical freedoms we have in America. With this decision the Ninth Circuit vigorously defended those freedoms, and we couldn't be more thrilled with the Court's decision. The message is clear: governments cannot simply privatize public space to sidestep the requirements of the Constitution.

HABEAS CORPUS SUSPENDED

OCTOBER 17—President Bush signed the Military Commissions Act of 2006 into law. This new law is one of the worst federal measures ever enacted in terms of impacts on civil liberties.

The president can now - with the approval of Congress - indefinitely hold people without charge and take away protections against horrific abuse normally protected against in Common Article 3 of the Geneva Conventions. Retroactive immunity is given to civilians who authorized or ordered illegal acts of torture and abuse. The rights of due process have been severely undermined by the creation of military tribunals that permit convictions and executions based on evidence literally beaten out of witnesses and that the defendant has a very limited right to see.

Most notably, the Act gives the president the authority to slam shut the courthouse door on habeas petitions. The writ of

habeas corpus is the fundamental safeguard of individual, citizen or alien, liberty because it allows an individual to challenge the lawfulness of his or her confinement in prison. Without it, there is no protection against arbitrary and unlawful imprisonment by the state.

"Nothing separates America more from our enemies than our commitment to fairness and the rule of law," said Anthony Romero, Executive Director of the National ACLU. "The bill signed ... is an historic break because it turns Guantánamo Bay and other U.S. facilities into legal no-man's-lands. This president will be remembered as the one who undercut the hallmark of habeas in the name of the war on terror Military Commissions Act."

Rest assured, the ACLU will lead the legal challenges against the unconstitutional and unwise provisions of this act.

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POLICE SHOOTINGS

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testimony is suspect. At the least, the cozy relationship between the police and local prosecutors creates the appearance of bias and thus undermines public trust in the system.

Presiding hearing masters also fail to inspire confidence. They're drawn from a narrow pool of candidates chosen with no community input. Moreover, they arguably have an incentive to avoid contentiousness to ensure serving again. They virtually never challenge police testimony, and often reject or miscast relevant questions that representatives of the families of the deceased or other members of the public submit in writing according to rules that severely limit their queries to such submissions.

This stilted scheme underscores the most glaring problem of all, the absence of anyone to speak for the deceased and others who question officers' one-sided renditions of the "facts." Our justice system is based on the assumption that the best way to uncover the truth is by allowing each party to present its respective case and to then challenge the other's presentation. Without this opportunity, evidence remains suspect.

Although police have raised legitimate concerns about the right of officers against self-incrimination when called to testify, they implausibly deny any need for improving the system. They instead proclaim that the police are willing to

participate in a public process that's supposed to determine whether they should be held criminally liable, only if they are assured that no one will ask questions that may expose them to criminal liability. This position is untenable and highlights the defects in the current inquest process.

Nowhere have these flaws been more evident than the recent inquiry into the death of 17 year-old Suave Lopez, a murder suspect who was shot in handcuffs while fleeing from police. Setting aside troubling questions about how Mr. Lopez ever escaped custody, the inquest findings should be discounted because no one asked crucial questions that demanded answers.

According to witnesses, 10 to 12 officers were present. Yet just four of them testified, which raises questions about what they might have said. That's especially true given that the only two officers who testified specifically about the fatal shot gave strikingly different accounts of what occurred. One said that the officer who fired that fatal shot did so directly in front of him and about four feet from Mr. Lopez. But the officer who fired the deadly shot claimed Lopez was 30 to 35 feet away when he pulled the trigger.

Resolving that discrepancy, which wasn't explored at the inquest, is obviously critical to determining whether Mr. Lopez's shooting was justifiable, excusable, or criminal. The same applies to discrepancies that regularly

arise during other inquests. These lopsided proceedings disserve police who aren't culpable and are entitled to be reliably cleared, as well as the public's interest in knowing whether officers are doing everything possible to avoid using deadly force without compromising their own and others' safety.

Law enforcement and the public deserve a credible inquest process in all seventeen Nevada counties. The district attorney's office shouldn't participate and should be replaced by a more independent agency like the attorney general's office. Hearing masters should be selected from a broader pool chosen with more community input. Someone must be present to speak for the deceased and others who want all the relevant questions asked. And, of course, officers must retain their right against self-incrimination when asked to testify.

Fixing the inquest system while balancing everyone's interests won't be easy, but not trying would be irresponsible. The present process merely provides an opportunity for officers to tell their stories without being pressed to explain gaps and inconsistencies. Without requisite reforms, it might be best to jettison the coroner's inquest system altogether. That is why the ACLU and NAACP are currently in negotiations with all of the key stakeholders, trying to bring about much needed change.

CREATE A LEGACY OF LIBERTY

In the words of ACLU Founder, Roger Baldwin, "No fight for liberty ever stays won." Making a gift to the ACLU Foundation through your estate is one of the most effective ways to ensure the freedoms that you enjoy today are passed down to future generations of Americans.

The *Legacy of Liberty Challenge* is an opportunity for you to help generate hundreds or thousands of dollars for the ACLU Foundation, without writing a check! Through the Legacy Challenge, if you name the ACLU to receive a bequest in your will or trust, our generous challenge donor, Robert W. Wilson, will make a cash donation today equal to 10% of your bequest's value, up to a maximum of \$10,000. Simply notify us that you've provided for the ACLU Foundation through a bequest provision, and we will qualify for matching funds from our generous Legacy Challenge donor.

For more information on the Legacy Challenge and giving to the ACLU through your estate, contact the Office of Gift Planning at:

ACLU Foundation
Office of Gift Planning
125 Broad Street, 18th Floor
New York, New York 10004
Toll free: 877-867-1025
www.aclu.org/legacy
Email: DeSilver@aclu.org

40th ANNIVERSARY

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Department of Political Science, in particular, filled part of the resulting vacuum.

The first executive director was Ted Oleson. He was succeeded by Jim Shields, Shelley Chase, Chan Kendrick, and Gary Peck. Major organizational growth occurred in the times of Shields (1981-88) and Peck (since 1996).

The principal office moved to Las Vegas at the end of the 1980s and remained there. We also operate an office in Reno, and maintained a unitary state structure without regional chapters after 1994. In 1994-95 it became necessary to reach out to ACLU's National Office to get us through a leadership crisis. This transition was highly successful, leading to the constitution of an almost entirely new board of directors and the hiring of Gary Peck and General Counsel Allen Lichtenstein.



Southern Nevada Office



Northern Nevada Office

The past decade has been our period of greatest success. We grew to six staff positions, and now have both Allen Lichtenstein and Lee Rowland as exceptionally able attorneys. They and their predecessors worked with many volunteer cooperating attorneys. We also employ Laura Mijanovich and Paige Thie as advocates in the North and Alina Shell as office manager in Las Vegas.

Our budget grew by more than 400% in the past decade, with the national organization contributing a great deal. Even more resources came from our 2300 Nevada members and other donors. These contributors include trade unions, leading Nevada corporations, and hundreds of individuals. Legacies and attorney fees have also helped greatly.

We now fight well above our weight in this state of two and one-half million people. We

are no longer a "small affiliate" in the ACLU constellation. Rather, we are involved in most of the state issues that substantially impact civil liberties and civil rights, carry a legal docket of more than twenty federal court cases at a time, testify on about one hundred bills at each legislative session, and are quoted almost daily in the media locally, statewide or nationally.

The affiliate leadership takes pride in our accomplishments during the first four decades. Current President Richard Siegel, who has been in the middle of things almost from the beginning, tells us that the organization has greatly exceeded his hopes and dreams.

Alone or with coalition partners we became the twelfth state to legislate against employment and housing discrimination based on sexual orientation. We helped to reform public defender offices and grand jury processes, and are endeavoring to achieve similar reform of coroners' inquests (see page 1). We provided access to the

disabled and to those seeking to use their right to free speech on the various state university campuses (see page 2), and opened previously closed sidewalks and squares of Las Vegas to public access.

We fought successfully against the establishment of religion and for freedom of religion, led Nevada's challenges to the PATRIOT Act and other federal legislation that restricted basic rights, protected the rights of immigrants and all minorities, and pioneered citizen-police review boards. On the way we represented conservatives, progressives, the homeless, weak minorities, the very privileged, gadflies and government officials.

The ACLU of Nevada now looks forward to its fifth decade of service, to more great victories for civil liberties, to continuing support from our friends, and to further growth in terms of board and membership involvement. Thanks to all Nevadans who revere the civil liberties

SOME OF THE VOLUNTEER LEADERS OF THE ACLU OF NEVADA, 1966-1991

Bruce Adams
Charlotte Arley
Bruce Blackadar
Michael Brown
Dean Breeze
Michael Cherry
Virginia Demmler
Hazel Erskine
Kathleen Fogarty
James Frye
Jack Forbes
Ruth Glick
John Gomes
Martin Gutride
Larry Hyde
Bill and Beth Isaef
Nancyann Leeder
Morris Kanowitz
Kevin Karp
Joseph Kelly
Bill Lohse
Trevor McMinn
Delia Martinez
Laura Mijanovich
Bill Moon
John Petty
Carlos Romo
George Rudiak
Elmer Rusco
Richard Siegel
Ellen Steiner
Marge Sill
Malcolm Simms-Williams
Wally Stephens
Harriet Trudell
Anne Vohl
Glynda White
Pamela Wilmore
Terry Wilsey

PARTIAL LIST OF NEW AND ONGOING CASES

By ALLEN LICHTENSTEIN, GENERAL COUNSEL and LEE ROWLAND, STAFF ATTORNEY

Park Permits/86ing/Childrens' Parks/No Feeding the Indigent [*Sacco v. Las Vegas I & III*]

Several park-related issues have arisen in a series of incidents involving good Samaritans who share food with the homeless in a local park. Two activists were first arrested for violating a Las Vegas Code that requires a permit for 'gatherings' of more than 25 people when they handed out hot food to the needy. Allen represented them at their criminal arraignment in local court, where the city attorney's office agreed to stay the case while our federal lawsuit is pending. In addition to challenging the permit code, we are also challenging the practice of "86"ing, or verbal Trespassing, which allows police to be judge, jury, and executioner in expelling people from public parks without any criminal process.

As if all that wasn't enough, the City of Las Vegas apparently tired of using its other laws to criminalize the acts of charity, passed a less subtle ordinance making it illegal to give food to anyone who "looks indigent." We believe this ordinance is unconstitutional for a number of reasons, and have filed suit against this new law on behalf of all of the plaintiffs from the former lawsuit, as well as two California activists who came to Vegas to protest the law by handing out food. They were ticketed for doing so.

Tasers [*Tucker v. Taser, Inc. & LVMPD*]

We are co-counsel with cooperating attorney Cal Potter in a wrongful death and civil rights suit on behalf of Sanford Tucker, whose son Keith died after being tased. We are suing the Metro police for a lack of coherent policy for Taser use, and Taser, International, for its knowing misrepresentation of product safety.

Parks Police [*Nowak v. Clark County*]

We have recently joined as co-counsel on an appeal to the Ninth Circuit in this case, which involves the covert use of surveillance cameras in a park police station's locker room, where male officers changed clothing. We are

arguing that the officers had a reasonable expectation of privacy in their locker room, and that their supervisors therefore unlawfully intruded into their privacy interests by installing the camera.

Sign Ordinance [*Webber v. Clark County*]

We have filed a legal complaint in federal district court on behalf of Jim Webber, a street preacher who was arrested for carrying signs on the street that were wider than his body, even after he had carefully measured the sign to fit his frame. The County's obstruction law is vague and in violation of the First Amendment, and also has a content-based exception for labor protests.

School uniforms [*Jacobs v. Clark County*]

We are awaiting a date for oral argument in the Ninth Circuit in this case, in which we are arguing that mandatory school uniforms in public schools unconstitutionally impinge on students' right to free expression and speech.

Brothel Advertising [*Coyote Publishing v. Heller*]

This case, which we recently filed on behalf of Coyote Publishing and Shady Lady Brothel, and Las Vegas CityLife, challenges the state law against brothel advertising in counties where prostitution is not legal.



LAS VEGAS BANS CONSTITUTION FROM CITY PARKS

By LEE ROWLAND, STAFF ATTORNEY

Confucius, Gandhi, and Winston Churchill have all famously been quoted as saying that the moral test of a government or society is how it treats its most vulnerable members. Right now, the City of Las Vegas is gravely failing that test.

The ACLU of Nevada finds itself devoting a considerable part of its litigation efforts on issues related to homelessness. This is not because we are a traditional homeless advocacy group, but rather because the homeless population is, sadly, a litmus test for government's willingness to deprive its citizens of crucial civil liberties.

We have witnessed this unfortunate pattern unfolding in Las Vegas, and we are committed to fighting any laws that strip civil liberties away from anyone.

We are currently litigating the constitutionality of four City of Las Vegas ordinances: a permitting policy for gatherings of 25 or more people in public

parks (which is totally unavailable in the vast majority of city parks); the practice of "86"ing, which allows police officers to trespass individuals from public property for non-criminal behavior (with no opportunity afforded to challenge the order); the establishment of children's only parks; and finally, the now-infamous law forbidding the sharing of food with anyone who "looks indigent."

What all of these laws have in common is that they are consistently enforced against the poor and homeless in an unconstitutional manner.

The constitutional infirmities in these laws – lack of due process, disparate treatment based on appearance, restricted access to public resources based on animosity towards a particular group – represent threats to our entire society.

The ACLU of Nevada will continue to defend the constitution against government abuses of power, regardless of the identity of the victims.

We all owe a debt of gratitude to the willingness of those targeted by these unconstitutional laws to stand up for their civil rights. This enables us to challenge these unlawful government actions, and ultimately to protect us all.

WIT AND WITTICISMS OF NEVADA POLITICIANS

COLLECTED BY TONI
SANDLER, BOARD MEMBER

"Certain truths are self-evident. You know who's homeless."

Las Vegas Mayor Oscar Goodman, when asked about how the marshals would be able to enforce the City's new "feed the homeless in our parks: go to jail" law.

"They're fighting for the freedom of speech, they're fighting for the right to protest, they're fighting for all those things. But when we are at war, especially, the leaders in this country need to be very, very careful of what they say and what they do."

U.S. Senator John Ensign, speaking about Iraq to the Las Vegas Review Journal. May 6, 2006.

"Anybody who is against that obviously must be a communist."

Congressman Jim Gibbons on the subject of corporate donations for inaugural parties, Gibbons spoke to NBC reporter Lisa Myers. February, 2005

"You know we have a beautiful highway landscaping redevelopment in our downtown. We have desert tortoises and beautiful paintings of flora and fauna. These punks come along and deface it. I'm saying maybe you put them on TV and cut off a thumb."

Oscar Goodman, Mayor of Las Vegas, discussing how he would solve the problem of "taggers" defacing freeways with graffiti. Wednesday, November 02, 2005.

2007 LEGISLATIVE PLANNING

By RICH SIEGEL, BOARD PRESIDENT

Your Nevada ACLU is now preparing for the regular session of the Nevada Legislature that comes in odd-numbered years and runs from February to May. This is one of the last legislative sessions before term limits set in, transforming the two houses markedly. For us the big change will be substantially new leadership in the Democrat-controlled Assembly. Neither Richard Perkins nor Chris Giunchigliani will return, and power there will center on new Speaker Barbara Buckley of Las Vegas.

The loss of Chris Giunchigliani is a huge one for our organization and for every Nevadan who cares about civil liberties and civil rights. She was among a group of women who carried considerable weight in the Assembly and in the Senate. She dominated the committees that she chaired and some that she did not chair. Almost no bill was beyond her ability to get through both houses. She was faced off with the staunchest of adversaries, and would generally come at least even as a trader and deal-maker without having to compromise core principles. Absent her leadership it would have been harder or impossible to pass employment non-discrimination on the basis of sexual orientation, ex-felon vote restoration, death penalty reform, and other ACLU priorities without her leadership. And she also knew how to stop bad stuff.

But we will have to get the job done without Chris in 2007. We will have help from within our organization from Staff Attorney Lee Rowland, Director Gary Peck, General Counsel Allen Lichtenstein, and Program Coordinator Alina Shell. We also hope to have specialist lobbying help in the crucial area of criminal justice.

For us the Nevada Legislature is a place where we can do business, but not without some major challenges. At times, legislators enact laws over our objections, even if powerful arguments have been made about their unconstitutionality. They do this to cater to majority opinion or the interest groups that provide them with endorsements and campaign contributions. We end up challenging these laws in the federal courts and frequently prevail. As a result, the State of Nevada is ordered to pay attorneys fees to our

organization, a burden to the state's taxpayers. In some instances this scenario has been repeated several times in regard to the same basic law, typically a statute dealing with free speech or the right of citizens to seek redress against perceived police misconduct.

This is not, however, always the dynamic we must contend with at the Legislature. Legislators continually increase criminal penalties without concern for proportionality or rehabilitation. This is mostly about politics—and it is often bipartisan. The state then builds more prisons, these now costing more than a hundred million dollars each, even when the crime rate falls and our school districts and colleges lack funds for new buildings. It also clings to a death penalty that costs millions of dollars to litigate per condemned inmate and leads to executions only for persons who want the state to put them to death. Many of these "volunteers" have serious mental issues—which our Legislature and courts choose to disregard.

With all this we will be there—fighting for equal treatment in relation to sexual orientation, race, and gender, advancing mental health treatment and rights, creating police accountability to citizens, and increasing freedom of expression. We will also advance truly equal educational opportunity in a state that ceased to be committed to adequate K-12 public school funding. We will also be there to oppose the next round of efforts by some of our legislators to close public meetings in the name of fighting terrorism, to deny public services to very poor Nevadans as well as to immigrants, and to further restrict the right to vote (as with mandatory photo identification), to not count all legal ballots, and to not allow provisional ballots to be used for state and local elections.

While the Nevada Legislature can be a trying place for the ACLU, our interactions with legislators have always been professional and we have consistently been among the most effective advocacy groups in Carson City. Legislators know when we assert that a bill is unconstitutional, this is a well-considered view. They also know that we will not disappear after an unconstitutional bill becomes law or when that bill needs to be

WHILE MOST OF THE LEGISLATURE SLEEPS

By LEE ROWLAND, STAFF ATTORNEY

While the Nevada legislature meets formally only once every two years, in reality much legislative work is shaped by interim committee meetings and the passage of state administrative regulations.

As our legislature and executive agencies continue to drive public policy in the twenty months between sessions, the ACLU of Nevada's presence at these intersession meetings is crucial. In the past year we worked in those forums on educational equality, elections, voting rights, prisons, parole, and sentencing, among numerous other issues. We paid careful attention to both the interim subcommittees of the Legislative Commission and to the adoption of administrative regulations by state agencies.

ELECTIONS AND VOTING RIGHTS

The most important electoral issue we faced was the effort by the Office of the Nevada Secretary of State to rewrite the regulations for provisional voting and related electoral and ballot measure issues. Such codifications of law affect every aspect of the right to vote and run for office in the Silver State. We spend scores of hours lobbying and testifying on these issues at each legislative session, and we are not going to let the Office of the Secretary of State and the Nevada Attorney General reverse hard-won gains through administrative processes.

The first draft of the regulations that the Secretary of State proposed threatened to erase important gains regarding use of the provisional ballot, access to polling places by third parties seeking to monitor voting rights, and the identification of voters. As we understand this, some of these proposed changes came from the Office of the Nevada Attorney General.

Nevada voting law must follow the mandates of the federal Help America Vote Act (HAVA) and The Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act of 2006 (VRA), the

latter being renewed and strengthened, with our strong support, in 2006. Nevada does not allow use of the provisional ballot for state and local races when an individual's right to vote at all is disputed, and the draft from the Secretary of State and the Deputy Attorney General sought to reduce this right further. We appeared at four hearings to oppose the narrowing of this right, and threatened a law suit over this issue.

At the last possible opportunity the Secretary of State's office agreed to the ACLU's interpretation. Provisional ballots will continue to be offered and will be counted if the voter is found to be properly registered to vote and appears in a polling precinct with the correct Congressional candidates listed on that ballot.

The Office of Secretary of State attempted to restrict the provisional ballot to persons voting at the exact correct polling precinct, a change in rights of voters that the 2005 Legislature refused to approve. This ACLU of Nevada win can be expected to aid many voters seeking to have their provisional ballot count for federal offices. In 2007 we will again try to gain the provisional ballot for state and local elections and for ballot questions—a right already won in at least 44 states (We lost this issue on a partisan split in the 2005 Legislature).

We also made progress in our efforts to enable Nevadans to use alternative forms of identification when they register to vote and advanced changes in Nevada law to enable certain ex-felons to regain their right to vote. We do not support any partisan agenda with our election work. Rather, we advance the basic cause of American democracy and the civil right to vote.

PRISONS AND PAROLE

The Sentencing, Pardons, and Parole and Probation Interim Legislative Subcommittee (ACR 17) provided a rare opportunity for us and our adversaries to fight for and against needed reforms in

each of these areas outside of the time constraints of the regular legislative sessions.

I am very pleased to report that we helped persuade the interim legislative committee, headed by Assemblyman William Horne of Las Vegas, to support a needed modification of the deadly weapon sentencing enhancement provision and to make it somewhat easier for prisoners to become eligible for and to obtain parole.

We also helped win the subcommittee's vital support for open meetings of the Parole Board and for written findings of the Board when their denial of parole departs from proposed parole guidelines. We advanced access to drug courts by prisoners, assuming that the current self-pay system denies crucial access to low-income defendants and inmates. We also helped to win the subcommittee's support for expansion of alternative courts, and specifically for a court dealing only with parole violations. It took courage for the subcommittee to support these changes, which will be submitted to the 2007 Legislative session.

We were unable to fully block proposals, supported by the Nevada District Attorneys Association, to further limit the use of the sentence of Not Guilty by Reason of Insanity, but we will continue the battle on this issue at the Legislature. Nevada officials do not want to recognize mental illness as a mitigating factor in its criminal law, including its application in death penalty cases.

We raised many other important issues at the hearings of the ACR 17 Committee. The committee dealt with most of the issues that we raised. Neither the district attorneys nor the ACLU were entirely happy with the results. But for once we are as pleased as our adversaries with the proposals sent to the legislature by an interim committee dealing with criminal justice.

FIVE QUESTIONS FOR BOARD MEMBER TONI SANDLER

By PAIGE THIE, PROGRAM ASSOCIATE

Toni is a relative newcomer to the ACLU of Nevada Board of Directors. From her first meeting it was clear that she would be a new source of energy and passion for the organization. Toni currently works for the Nevada Bar Association and coordinates Continuing Legal Education programs, which are mandatory for all attorneys in the state.

Where did you get your passion for civil liberties?

I was born and raised in San Francisco, which was and still is a more liberal-thinking area. But, more importantly, I was an ILWU [International Longshore and Warehouse Union] baby. I grew up listening to my father arguing with his longshoreman buddies, including Harry Bridges, and their thinking just seemed right to me. By the time I went to U.C. Berkeley, the ideas of collective bargaining, civil liberties and equal access were all firmly imprinted on my brain.

How did you get involved with the ACLU of Nevada?

About two years ago I attended a Democratic meeting on church and state issues, where Rich Siegel [President of the ACLU of Nevada] presented, and I had been very vocal about my wishes to keep religion out of politics. Some days later, Rich and I met and he asked me to consider applying for the board.

Are there any issues that the ACLU handles that are especially important to you?

Aside from keeping religion out of politics, I am absolutely passionate about what I see as an extreme erosion of our civil rights under the rubric of national security. That's usually the precursor to the takeover of a state by fascist dictatorships. Next comes the destruction of freedom of the press. These are bad times. I

care about this stuff, because, counter to what one hears from some conservatives, I am proud of the values this country has stood for and want to see them remain.

Have you done work for any other social justice organizations?

I've worked with a great number of non-profit organizations, both social service and artistic. But they all had the same roots: freedom of expression, equal access to human services and the arts and a commitment to rectifying the injury caused by past destructive social programs. I'm still involved with arts groups. I see access to the arts as a right, not "fluff." The arts are part of our humanity. Without the arts, expression and values no longer exist and



without these things we are barely human any more. My work with CNN and other news outlets as a writer and producer came from the same wish - to see more responsible communication between those expressing and those hearing. It's all the really the same thing.

Where would you like to see the ACLU of Nevada in 5 years?

I'd like to see the ACLUNV more accepted by mainstream and conservative groups in Nevada. I'm always hearing misconceptions about the ACLU. If people could only see that our mission is neither conservative nor liberal. For so many folks right now, the idea of supporting an ideal, like free speech for students, churches and Nazis sounds really threatening, because these people are just about moving people to their way of thinking. But the ACLU sees through the partisan stuff to what's really important - true freedom and equal treatment for all.

NOMINATIONS SOUGHT FOR BOARD OF DIRECTORS

The ACLU of Nevada is governed by a Board of Directors. Each Board member must be a card-carrying member of the organization. One-third of the board members are elected each year and a single term of office consist of three years.

If you would like to be considered as a potential candidate for this year's election, please submit a written letter of intent with a brief biography for the nominating committee's consideration to:

ACLU of Nevada
Nominating Committee
732 South Sixth Street,
Suite 200A
Las Vegas, Nevada 90101

To receive full consideration, all such nominations must be received by March 15, 2007. Nominations may also be submitted by petition. Members interested in being nominated by petition should submit a state 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 a brief biography included on the ballot to the same extent as such information of candidates nominated by the nominating committee. Nominations must be received no later than March 15, 2007.

Nominations of women, people of color, people living with HIV, people with disabilities, and lesbian, gay, bi-sexual and transgender individuals are strongly encouraged.

JUSTICE ROSE HONORED AT ANNUAL EVENT

By TONI SANDLER, BOARD MEMBER

Leaders from the legislative, legal, judicial, social service communities, and just plain friends gathered on August 11th to pay tribute to retiring Supreme Court Chief Justice, Robert Rose. The celebration, held at Las Vegas's Bali Hai Golf Club, was the highlight of the 4th Annual Celebration of Civil Liberties.

The ACLU's Emily Wanderer Award honors individuals for their support of civil liberties. Although the Nevada ACLU gave many awards before 1994, the Wanderer Award was first given in 2004 to Emily Wanderer herself and is the only award now bestowed by that organization. Wanderer was one of the first female attorneys to practice in Nevada. Executive Director Gary Peck said that Chief Justice Rose more than deserved the honor for "his lifetime of willingness to step forward on issues of criminal due process, women's rights and civil rights -both in relation to the Nevada judiciary and for all citizens of Nevada."

Although the award focuses on his record while on the Nevada Supreme Court, it also acknowledges his contributions as Lt. Governor. Board President Rich Siegel noted that the award is also well-suited because he went the extra mile on the Equal Rights Amendment (ERA)—declaring the Nevada senators who chose to absent themselves at the last minute as having voted no and using the vote of the Lt. Gov. to break the tie.

The award also recognized that Rose had consistently paid attention to his obligation to protect against violations of due process of law in criminal and civil cases. "The difference between Bob Rose and many other judges is that he has been willing to speak and act publicly in the interest of reform of the justice system," Siegel added.

Among those paying homage to Chief Justice Rose were Congresswoman Shelley Berkley, Clark County Public Defender Phil Kohn, Nancy L. Alf, President-elect of the State Bar of Nevada, Supreme Court Justice James W. Hardesty, Supreme Court Justices elect Michael Cherry and Nancy Saitta State Senator Dina Titus, Federal Public Defender Franny Forsman, Las Vegas Mayor Oscar Goodman, members of the Legislature, and three district judges. Speaker after speaker told stories of Chief Justice Rose's determined support, as President of the Senate, of the Equal Rights Amendment, rejected three times



(from left) Rich Siegel, President ACLU of Nevada; Gary Peck, Executive Director, ACLU of Nevada; Chief Justice Rose

by the Nevada Legislature, and of his reputation in the legal community and on the court as a reformer. Chief Justice Rose promoted the creation of the Court's blue ribbon Judicial Assessment Commission to identify unequal patterns of treatment of citizens and failures to create equity in staffing within the

justice system.

Former Judicial Discipline Commissioner and long-time friend Leonard Gang, provided some of the best humor of the evening with stories of young law clerk Bob Rose and his summertime road trip across the Nevada desert in his non air-conditioned Sprite.

After his Nevada Supreme Court clerkship, the New York University School of Law graduate practiced law in Reno before he was elected Washoe County District Attorney in 1970. Four years later he was elected Lieutenant Governor. In 1979 he returned to the fulltime practice of law in Las Vegas. He came back to the judiciary in 1986 when he was appointed to the Eighth Judicial District Court bench. He spent only two years there before a vacancy occurred at the Supreme Court, providing him with the opportunity to fulfill a dream that began nearly a quarter century before. He won the election and was reelected in 1994 and in 2000. His third six-year term expires at the end of 2006.

Accepting the Wanderer Award plaque, Chief Justice Robert Rose said, "I've never run away from the concept of equal rights...I've embraced it...and your work is needed now more than ever."



Rich Siegel presents Justice Rose with the Emily Wanderer Award

UNR NOW A FREE SPEECH ZONE

By RICH SIEGEL, BOARD PRESIDENT

One of the purest free speech victories for the ACLU of Nevada came in June of this year with the reversal of University of Nevada, Reno's (UNR) policy that severely restricted free speech on that campus.

Under the old UNR policy true collective free speech activity or public forums were not accepted by UNR policy anywhere on the campus. Four sectors were designated for protests and tables, but even access to these areas required prior permission from the UNR bureaucracy.

When Nevada Students for Peace and Solidarity and the Queer Student Union sought to protest military recruiters, they were told that they were in a forbidden zone and forced to leave. When the Young Republicans sought to protest Michael Moore at the Lawlor Events Center in the fall of 2004 they were first told that this location was not acceptable and then won a one-time exception to the policy.

Beginning in late 2005 we insisted that all Nevada System of Higher Education (NSHE) campuses have free speech policies that start with the propositions that constitutional rights to free speech apply to most of their grounds and that any exceptions to public forums be justified in advance by the campus authorities. After arguing with our position for about six months the UNR campus administration adopted a new policy that opened the way to the entire system's acceptance of the ACLU's approach. No litigation was necessary.

The next step for UNR will be the announcement of exceptions to the open campus policy. ACLU of Nevada understands that certain activities can be proscribed because they disrupt essential campus operations, particularly classroom teaching. But we insist that any exception to the right of free expression must involve a real threat of disruption. One of the great steps forward at UNR is the abandonment of the requirement of

prior permission for collective speech areas, expected to be most of the campus.

One of the shocks of this fight was the initial vote of the UNR Student Senate to endorse the closed campus idea. Some of this support derived from student opposition to homophobic preachers on the campus in early 2006. Often, people have the impulse to protect only speech that they like. But the ACLU recognizes the importance of defending the right to free speech, regardless of the content of the speech.

The Graduate Student Association and, especially, the Nevada Sagebrush student newspaper, aligned with the ACLU and spoke well to the issues. In addition, we give credit to Interim President Joe Crowley for this sensible turn-about. But this would not have happened without the great work on campus by the Nevada Students for Peace and Solidarity, the Queer Student Union, and, in particular, Lisa Stiller.

ACLU Executive Director Gary Peck, General Counsel Allen Lichtenstein and Staff Attorney Lee Rowland led the ACLU of Nevada team that worked on our campaign to influence UNR, the Regents and the Chancellor. ACLU of Nevada undergraduate intern Kyle Frankewich sat on the UNR committee that developed the new policy and deserves enormous credit for the work that he did in the trenches.

We diligently continue to pursue the issue at UNR and on the other NSHE campuses. One lesson learned from the work at UNR is that basic knowledge of the First Amendment is not widespread on our college campuses.

This is why we need ACLU student chapters and pro-civil liberties speakers at our high schools and college campuses, and why Nevada's colleges continue to be battlegrounds for the work of the ACLU of Nevada.

GET INVOLVED.

The ACLU of Nevada has three ways for you to help preserve, protect, and defend the Bill of Rights. You can join our Action Alert List to receive emails with easy actions you can take on local, state, and federal issues. You can join our new Quick Responder Team and receive notification when the ACLU needs our members to be a presence at a public meeting or when we need help phone banking. If you can dedicate time each week, we also need volunteer help in our offices.

Please send an email with you contact information to aclunv@aclunv.org with the following information.

I would like to:

- Join the ACLU Quick Responder Team
- Join the ACLU of Nevada Action Alert List
- Volunteer with the ACLU of Nevada

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: (_____) _____ Work: (_____) _____ Cell: (_____) _____

Email: _____

You can also return this form to ACLU of Nevada, 732 South Sixth Street, Las Vegas, NV 89101.

The ACLU of Nevada respects your privacy. We will not share your contact information with any other individual or organization.