

ACLU-DE Joins Nationwide Smart Justice Campaign

Goal: Cut Prison Population in Half, Focus on Rehabilitation

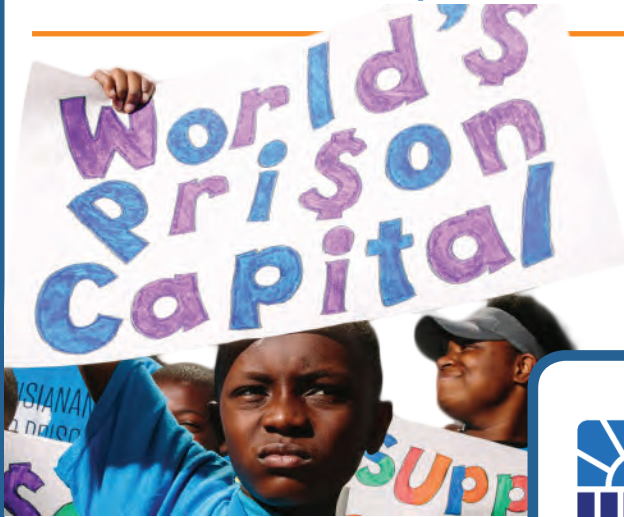


Photo by Edmund Fountain

related programs, representing 7.4 percent of general fund expenditures.

In order to directly confront these disturbing facts and figures, Delaware is joining the national ACLU Campaign for Smart Justice. The mission of the campaign is to cut the

U.S. prison and jail population in half by using a 50 state strategy of advocacy, litigation and public education. Here



in Delaware, we will be pursuing legislation to promote bail reform, expand opportunities for early release of older or ill prisoners, and increase the use of diversion programs and specialty courts such as drug and mental health court. We'll also be launching a statewide education and outreach effort through public meetings, radio, and social and print media.

How a large prison population comes about is no mystery. It results from too many people going into prison in the first place and then staying there for too long. Both of these factors are determined by state policy. In Delaware, 20-25 percent of prisoners have not been convicted of a crime—they are incarcerated because they didn't have \$50 or \$100 for bail. Those who are convicted stay in prison, on average, one year longer than the national two year average. It's interesting to note that these longer prison stays are not

The United States has less than 5 percent of the world's population and almost 25 percent of the world's incarcerated people. Since 1970, our incarcerated population has increased by 700 percent to 2.3 million people in jail and prison today, far out-pacing population growth and crime. By the end of 2014, there were 6 black men in prison for every white man, and there were double the number of black women imprisoned than white women. Annually, the United States spends over \$80 billion on incarceration.

Delaware has the dubious honor of being the most incarcerating "blue" state in the country. Despite our small size, we rank 11th among states, incarcerating at a rate of 739 per 100,000. This compares to a rate of 706 for PA, 499 for Maryland, 409 for NJ, and 382 for New York. Black Delawareans account for 22% of our general population and 51% of our prison population. In 2016, Delaware spent \$290 million on incarceration, probation and

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and more!

connection ACLU-DE OFFICERS & STAFF

Kathryn M. Jakabcin
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Vice President

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Treasurer

Desmond Baker
Equity & Inclusion Officer

S. Elizabeth Lockman
President ACLF

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Executive Director

Richard H. Morse
Legal Director

David Bever
Director of Development

Ryan Tack-Hooper
*Staff Attorney &
Legislative Advocate*

Shannon Griffin
*Community &
Project Organizer*

Joyce McCormick
*Legal Intake Manager &
Paralegal*

We invite you to exercise your
free speech rights by sending
suggestions, letters, questions,
or comments.

aclu@aclu-de.org
302-654-5326

100 West 10th Street, Suite 706
Wilmington, DE 19801



aclu-de.org



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Executive Director's Notes

New Voting Machines Essential to Secure Elections



Kathleen MacRae
Executive Director

Anyone concerned about the integrity of our democracy here in Delaware needs to contact their senator, representative, and Governor Carney and tell them: We need new voting machines now!

The situation is dire and even though the ACLU, the League of Women Voters, Common Cause and other groups have been talking to the Department of Elections for years about upgrading—it seems that the question of whether we will have new machines by 2020 is still up for debate.

The typical life of a voting machine like the one we use here, which is actually a computer, is 10 to 20 years. Our machines are 21 years old, being first used in 1996. They are no longer supported by Microsoft so their security software can no longer be updated. The odds of a hack or serious system failure are very real.

The task force set up by the General Assembly to recommend which new machines we should buy did not begin to meet until March of this year, the month their report was due. The original expectation was that we would have new

machines by November 2018. Now the earliest they will be online is 2020.

And then there is the question of cost. New machines and associated technology will require a \$15-20 million investment. It's possible that we can lease some of the equipment and spread the cost out over time, but the bottom line is—new voting technology must be at the top of the spending priority list in 2018. Kicking this can down the road is not an option!

Not only are new machines essential for the integrity and security of our elections, they will allow us to finally move Delaware into the modern age and make it easier to implement voting reforms such as early voting and automatic and same day voter registration. So please, speak up about upgrading our voting technology to your friends and colleagues and contact your elected officials. New machines are fundamental to the smooth functioning of our democratic system. 🗳️

Selling Off Our Freedom is a new report from ACLU and Color of Change that documents the impact of money bail on communities of color and the poor.

Go to aclu-de.org to read the press release and download the full report.



**SMART JUSTICE,
CONT. FROM PAGE 1**

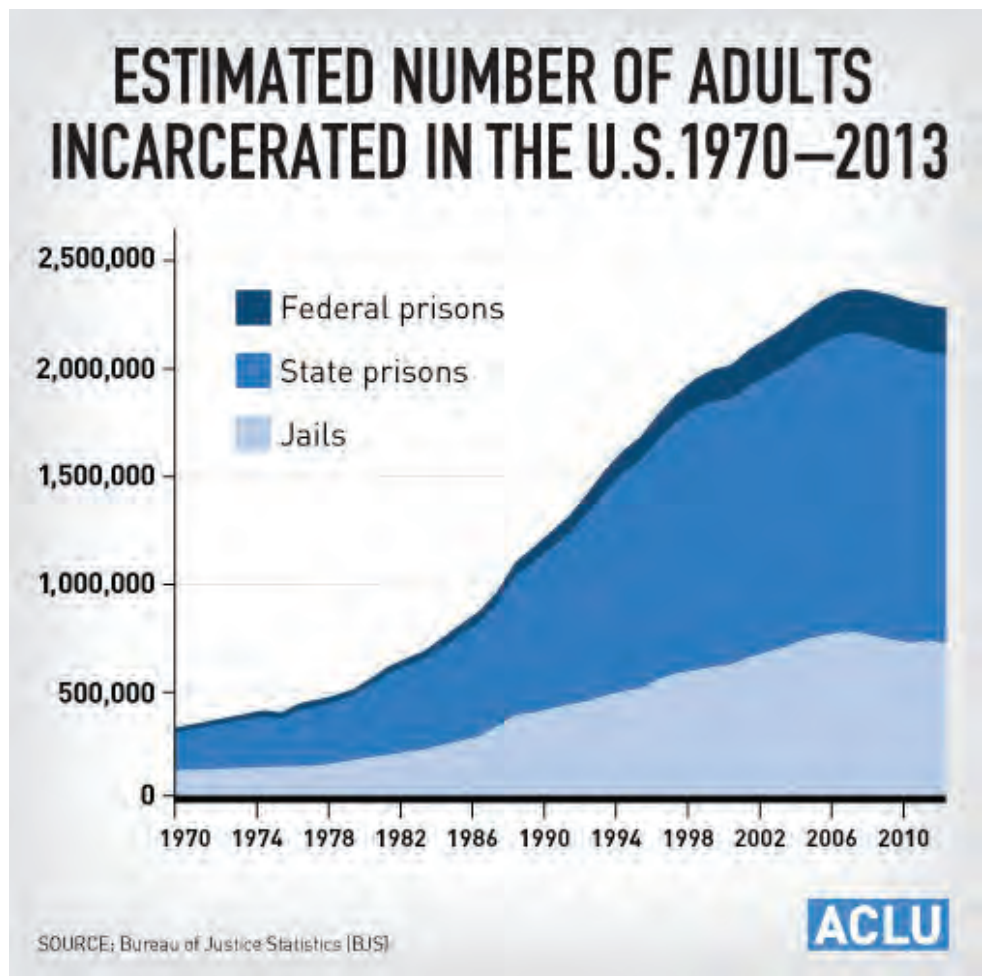
a result of longer original sentences when compared to other states. The long stays are due to the lack of education, job training and mental health programs inside. In theory, prisoners in Delaware can earn good time for up to a 50% reduction of their sentence. But if no programs are offered, no good time can be earned. Instead, prisoners sit idle, without the opportunity to learn new skills or improve those they already have.

Is it any wonder that Delaware's recidivism rate is so high? We re-arrest, within 3 years, 77 percent of those individuals released from prison. This

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compares to an average re-arrest rate of 68 percent in other states. Even starker is the Delaware re-conviction rate of 72 percent within 3 years, compared to an average re-conviction rate of 45 percent in other states.

It's time for Delaware to move away from its failed tough-on-crime approach. The violent crime



in our communities is as much about our criminal justice policies circa 1980, as it is about the proliferation of poverty, gangs and drugs in all corners of the state.

Smart justice here in Delaware means reducing the size of our prison population so that more resources can be devoted to programs that will rehabilitate.

When over 15,000 people churn into and out of our prison system every year, we can do no less if we want to keep our community safe. 🚫



PEOPLE POWER

This fall, People Power groups in Delaware and throughout the country will be asked to advocate for election reforms. Voting is the cornerstone of our democracy and the fundamental right that underpins our civil liberties. Every state needs to make voting as

efficient and convenient as possible so that all who want to cast a ballot on Election Day can do so.

Here in Delaware, we will promote legislation to establish 10 days of early voting combined with same day voter registration. We plan to

equip People Power activists with messages, materials and advocacy guidance so they can organize events in their communities and lobby their elected officials to help pass this legislation. Stay tuned for more information coming soon! 🗳️

NEVER SILENT: THESE ARE OUR VOICES OF FREEDOM

Join us on October 18 at the Chase Center on the Riverfront for the 32nd Annual Kandler Memorial Awards Dinner. Go to www.aclu-de.org for tickets and more information.

KANDLER AWARD HONOREES



Theopolis K. Gregory, Sr.

A champion for racial justice since his college days, Theo practiced poverty law at Delaware Community Legal Aid Society as a Reginald Heber Smith Fellow in the late 1970's. In 1979, President Jimmy Carter appointed him Assistant United States Attorney for the District of Delaware. Later, as an assistant public defender, Theo's primary responsibility was representing juveniles in family court. In 1984, Theo was elected to the Wilmington City Council where he served six terms as a member and as its president from 2013-2017. As founder and prime driver of Student Disabilities Advocate, Inc., he continues to push for education reform and the rights of students. Theo currently runs his own law practice, specializing in education law.



Sarah, Sally and David McBride

In July 2016, Sarah became the first openly transgender person to address a major party political convention when she spoke at the 2016 Democratic National Convention in Philadelphia. She is the national press secretary of the Human Rights Campaign and serves on the board of directors of Equality Delaware. Sarah is supported and joined in her activism and advocacy by her parents: Sally, an advocate for education reform herself for over 20 years in Red Clay; and David, a partner at Young Conaway Stargatt & Taylor, LLP, practicing corporate law and litigation in the Court of Chancery.

CLARENCE DARROW AWARD HONOREE



Marion M. Quirk, Esq.

As a cooperating attorney with ACLU-DE, Marion helped to secure a settlement for a transgender prisoner who faced abuse and was denied necessary medical care. She has also worked with ACLU-DE to prevent sexual assault in Delaware's prisons. In private practice, Marion represents public and privately held companies in out-of-court restructurings and traditional Chapter 11 cases at Cole Schotz P.C.

GUEST SPEAKER



David Cole, ACLU National Legal Director

David Cole oversees the ACLU's U.S. Supreme Court docket and provides leadership to 100 staff attorneys in the New York headquarters and over 200 staff attorneys in ACLU affiliates around the country. Before starting his ACLU career in 2016, David taught constitutional law and criminal justice at Georgetown University for over 25 years. The late *New York Times* columnist Anthony Lewis called him "one of the country's great legal voices for civil liberties today." David has been featured in several news shows and magazines, including *The Rachel Maddow Show*, NPR's *All Things Considered*, *POLITICO Magazine* and *The Washington Post*.



Richard Morse, ACLU-DE legal director, (third from the left) recently received an award from the National Disability Rights Network for his efforts to successfully change the conditions of solitary confinement for Delaware prisoners with mental illness. He is pictured with his fellow recipients Liz Booth, Community Legal Aid Society, Inc. staff attorney, Dan Atkins, CLASI executive director, and James Levine, an attorney with Pepper Hamilton LLP.

Thank you CLASI for sharing the great picture!

Notes from a Community Meeting on Life After Prison

"Is there someone I can go to who can help me figure out the consequences of my conviction?"



*Article By
Ryan Tack-Hooper*

That was the question posed at a community meeting I attended last week at the Achievement Center. It cuts to the core of the issue we were there to discuss. People who are trying to put their lives back together after completing a criminal sentence want to know which doors of opportunity Delaware has closed, and which remain open. They want to know whether they can get college or job training funding, and whether some jobs are easier to get than others with a criminal record.

It should be easy to find answers. We have a criminal justice system that resolves 96% of criminal cases by plea bargain. But can we call it a fair bargain if one side doesn't know what they're getting? The reality is, it's almost impossible to know what privileges have been taken

away when you agree to a plea deal. Many people learn of the barriers set up by lawmakers only when they've run headlong into them, such as when graduating from vocational training for an occupation for which they cannot yet get a license. Others simply assume they cannot vote, or cannot get a business license, many times wrongly.

Like all community meetings that focus on reentry, many of our conversations came back to jobs—the power of a good job to keep someone out of prison and the perversity of a system that deliberately makes it harder for people with convictions to get jobs.

But, at this meeting, I also saw reason for hope. People had ideas for change, born of their own experiences. One man suggested financial

incentives for employers to give people returning from prison their first jobs upon reentry.

This meeting was a reminder that it is not enough to cut through the underbrush of this irrational jungle of laws. Piecemeal reform may never bring transparency and order to the 700 collateral consequences laws in Delaware. What we can do, and must do, is support community leaders who have good ideas about the kind of changes that will make these barriers less relevant—directly empowering people with convictions and the employers open to hiring them. 🗣️



*Our 2016 report, **Every Sentence Should Not Equal a Life Sentence**, discussing Delaware's system of collateral consequences and proposed ideas for reform is available on our website, www.aclu-de.org.*

Case Docket



Improper arrests. We have joined as co-counsel a class action lawsuit challenging false arrests carried out by the Wilmington Police Department. The department has a pattern of handcuffing people and transporting them to the police station without probable cause in violation of the Fourth Amendment, improperly classifying these arrestees as “two-hour” detentions under a decades-old statute concerning on-the-street stops. The parties are awaiting a decision on class certification while proceeding with discovery.

Free speech. Our suit against the Town of Milton concerning their ordinance forbidding political signs during parts of the year is proceeding. Milton removed the lawsuit from state to federal court, but has agreed that our client can display her signs during the pendency of the case. Trial is scheduled for June 2018.

Muslim Ban. Together with the ACLU affiliates in Virginia, Maryland and Pennsylvania, we filed suit against the U.S. Department of Homeland Security and Customs and Border Protection (CBP) for failing to respond to our joint Freedom of Information Act request seeking records and communications concerning CBP’s local implementation of President Trump’s January 27, 2017 Executive Order. The government

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Cape Henlopen Discrimination Accusations

Discrimination Concerns Sparks Coalition of Allies

On June 19, the community room at CAMP Rehoboth hosted a full house to discuss the hostile environment facing transgender and gender non-conforming students and their allies in the Cape Henlopen School District. Students and the press alike cited the departure of a popular teacher and faculty adviser to the school’s Gay-Straight

Why don’t we enjoy the same protections as other groups?

Washington Blade’s Lou Chibbaro, Jr., Martha Pfeiffer, who also served as director of the school’s theater department, “was forced to submit her resignation earlier this year based on what students and parents believe to be anti-LGBT bias.”

A parent stated that she had moved to the Rehoboth area for the benefit of her daughter, who identified as a lesbian. Instead of the support she expected, her daughter was told by a teacher to deal with her sexuality through prayer. In a separate instance, a school custodian allegedly challenged her daughter’s sexuality on religious grounds.

“Why don’t we enjoy the same protections as other groups?” asked one concerned student.

As part of a panel including representatives from some of DE’s premier LGBTQ and youth organizations, ACLU-DE Legal Director Richard Morse advised that a single student’s story might not be enough to effect widespread change. He encouraged as many of the impacted students as possible to contact ACLU-DE to share their stories. An investigator from Delaware’s Human Relations Commission added that civil rights violators could be fined for their behavior.

At the beginning of the meeting, Steve Elkins, CAMP Rehoboth’s executive director, reminded the audience that CAMP is an acronym for “Create a More Positive” Rehoboth, recalling a time before the venue’s safe space was available to all. By evening’s end, a new coalition of parents, advocates and religious leaders came together to take responsibility for creating a more positive experience for some of the community’s most vulnerable members.

If you’ve been the victim of discrimination at one of Delaware’s public schools based on your gender identity or sexual orientation, please contact the ACLU-DE by emailing legal@aclu-de.org.



Got Stock? Give Stock!



It's all over the news—the stock market is reaching record highs! Why not reap the benefits of making a gift of stock to ACLU-DE? You can deduct the full, fair market value of a gift of stock that you have held for at least a year from your taxes, despite what you originally paid

for it. Best of all, you'll be making a powerful statement in defense of the liberties and civil rights we all hold dear.

However you choose to give, give today, and increase the impact of your gift! **Take the Longwood Freedom & Justice Challenge: thanks to the generosity of the Longwood Foundation, once we reach our threshold, every gift to ACLU-DE is matched dollar-for-dollar.**

For more information, contact Director of Development Dave Bever at 302.654.5326, ext. 100 or via email at dbever@aclu-de.org.

Never Let it Be Said that ACLU-DE Can't Throw A Party!

Thanks to all of our incredible southern Delaware supporters who joined us for our "Freedom Fundraiser" on June 17!

Good food, good wine and good people made for a perfect summer evening at the beach. Special thanks to our hosts Steve Elkins and Murray Archibald of CAMP Rehoboth and our generous food and beverage donors: The Back Porch Café, Big Fish Grill Rehoboth, Bin 66 Wine & Spirits, Lavender Fields at Warrington Manor, Mariachi Restaurant in Rehoboth

Beach, Eric Pisani, and Semra's Mediterranean Grill. 🍷



*Photo By: Murray Archibald
Lisa Schlosser and Kathleen MacRae,
ACLU-DE executive director enjoying
the party.*

CASE DOCKET, CONT. FROM PAGE 6

sought to have the case combined with suits filed by ACLU affiliates in other parts of the country, but that motion has now been denied. The case will therefore proceed to be heard in the Eastern District of Virginia.

Privacy. Our suit seeking access to information about the State Police use of cell phone surveillance technology has been settled because the State Police agreed to turn over additional responsive records, including an additional nondisclosure agreement and records demonstrating what kind of legal authority they sought and what they told the Court about the technology. You can view the documents on our website, along with deeper analysis of the case and what we have learned. We are currently pursuing an award of attorney's fees for the action.

Police Militarization. Our case on behalf of a quadriplegic woman and her husband who were terrorized by a state police assault team executing a search warrant against two alleged minor drug criminals is ongoing. Trial is scheduled for Fall 2017.

COFFEE WITH DAVE?

It's no secret that Director of Development Dave Bever loves coffee almost as much as he loves getting to know our incredible supporters.

Whatever your beverage of choice, Dave would love to meet for coffee and learn more about you and why you stand with the ACLU. What's more, he's buying! Don't hesitate to call him at (302) 654-5326, ext. 100 or send him an email at dbever@aclu-de.org!





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