

the defender



IF YOU DON'T
THINK IOWA HAS

**A MASS
INCARCERATION**

PROBLEM,
COUNT THE
NUMBER OF
PEOPLE BEHIND
BARS ON ANY
GIVEN DAY.
IT SURPASSES THE
POPULATION
OF ENTIRE TOWNS,
LIKE CLIVE,
BOONE, AND
OSKALOOSA.

More than 8,500 people are in Iowa's prisons.¹ Another 3,600 people are in Iowa's county jails, where, shockingly, 87 percent haven't even been convicted of a crime.²

They're just languishing there awaiting trial, almost always because they're simply too poor to post bail or bond.

Those numbers have been exploding since 1980. The state prison population has tripled since then and corrections facilities are now bursting at the seams.

Iowa prisons are 24 percent over capacity³ and are projected to be 43 percent over capacity within 10 years.

This over reliance on the criminal justice system as a way to respond to drug addiction, mental illness, poverty, and underfunded schools has fractured American society, damaged families and communities, and wasted trillions of taxpayer dollars.

[Continued on page 6]



DRUG AND
OTHER NON-
VIOLENT
CHARGES PUT
**CORTEZ
KELLEM-EL**
IN PRISON FOR
18 YEARS.

16,000

IOWANS ARE BEHIND BARS

HELP US HONOR AMAZING IOWANS



Randy Evans will be recognized for his stalwart defense of free speech and open government as a Des Moines Register editor and as the Iowa Freedom of Information Council executive director.

The Partners in Liberty Award

will be presented to Iowa Citizens for Community Improvement for its role as an important client in our Ag Gag lawsuits to protect the rights of advocates and investigators. They also tirelessly advocate with impacted communities on a myriad of issues including racial justice and immigrants' and workers' rights.

Our **Dan Johnston Cooperating Attorney Award** will go to Nixon Peabody of Chicago partners,

F. Thomas Hecht, Seth A. Horvath, and Tina B. Solis. They volunteered hundreds of hours on two transgender rights lawsuits.

» One of the last things Casey Gradischnig, below, did was to reimagine this newsletter.



Ames High student Malika Davis will receive the **Robert Mannheimer Youth Advocacy Award** for organizing a peaceful response to a demonstration at her school by Westboro Baptist Church and for helping to plan Ames Pride.

And the **Edward S. Allen**

Award will posthumously honor the legacy of Casey Gradischnig, former ACLU of Iowa board member and a longtime LGBTQ rights advocate. A gifted designer, he revolutionized the ACLU's visual style through work on the national magazine STAND and, in his final months, a redesign of The Defender.

See you at the brunch October 12. It will be an inspiring event, for sure!

Mark
MARK STRINGER
ACLU of Iowa
Executive Director

EVERY DAY OUR WORK

connects us to remarkable people who inspire us with their commitment to civil liberties and civil rights. It is a distinct privilege to recognize some of these standout people at our annual Bill of Rights Brunch (see opposite page).

Louise Noun Award winners include Kenneth Bunch and Tracy Bjorgum, who in 1976 were denied a marriage license. We filed a lawsuit, marking the opening round in Iowa of the several-decade march toward marriage equality.

We will honor Judge Mark Bennett, now retired, who in his 28 years as a U.S. District Court judge, demonstrated bold national leadership in criminal justice reform, including on topics like implicit racial bias.

ACLU
AMERICAN CIVIL LIBERTIES UNION
Iowa

THE DEFENDER IS THE
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bill of rights BRUNCH

to be held October 12

Join us at the Des Moines Hilton
to honor inspiring individuals'
tireless work for a better state.

From criminal justice reform to LGBTQ rights, open government to the rights of workers. This year's ACLU of Iowa award winners have done an amazing breadth of civil liberties work that in some cases spans just a few years and in others spans decades.

Help us celebrate these advocates and connect with like-minded civil libertarians with a buffet brunch, mimosas, and more.

■ **Edward S. Allen Award**

Casey Gradischnig

■ **Louise Noun Award:**

The Honorable Mark W. Bennett

Randy Evans

Tracy Bjorgum and Kenneth Bunch

■ **Partners in Liberty:**

Iowa Citizens for Community Improvement

■ **Dan Johnston Cooperating Attorney Award:**

Nixon-Peabody

■ **Robert Mannheimer Youth Advocacy**

Malika Davis

SATURDAY, OCTOBER 12

10:00 A.M.-12:30 P.M.

**DOWNTOWN
DES MOINES HILTON**

www.aclu-ia.org/brunch2019



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Because the ACLU is so important to the future of our democracy

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☐ I/We would like my/our gift in honor/memory of _____

☐ I/We wish to remain anonymous.

Make your gift online: Visit www.aclu-ia.org/donate

Contributions to the ACLU Foundation of Iowa, a 501(c)(3) organization, are tax-deductible to the extent of the current tax code.

OUR **Work**

The ACLU of Iowa is strictly nonpartisan and nonprofit. We work in the courts, in the Iowa legislature, and through public education and advocacy to assure the rights of everyone in Iowa—from atheists to devout Christians, from labor unions to businesspeople and more—to make sure that the constitutional rights of all are preserved. Here are highlights of our recent work.

1ST AMENDMENT FACEBOOK POSTS ARE FREE SPEECH

Red Oak

It's a fundamental First Amendment right to speak out against your government. And that right isn't diminished when the criticism is posted on social media.

Jon Goldsmith of Red Oak took to his Facebook page to criticize what he felt were the overly aggressive actions of an Adams County sheriff's deputy at a local festival. He was stunned when he was charged with harassment for that criticizing post.

With the help of the ACLU of Iowa, he was able successfully to sue the sheriff's department.

It's paid Goldsmith \$10,000 in damages, will undergo First Amendment training, and must adopt an ACLU-approved social media policy.



VOTING RIGHTS PROGRESS ON FELONY VOTING RIGHTS

Des Moines

For decades, the ACLU and partner organizations have worked to change Iowa's draconian law that automatically strips anyone convicted of a felony of their voting rights—

for life. An estimated 60,000 (and growing) Iowans cannot vote because of this. Other states have gotten rid of such restrictions, and today only Iowa and Kentucky have such laws.

Gov. Reynolds has now taken up felony disenfranchisement as a top priority. She pushed legislation that would, in time, amend the Iowa Constitution to end disenfranchisement of people with felony convictions.

The bill passed the Iowa House and is now before the Senate, which will consider it again when the legislature starts its new session.

OPEN GOVERNMENT ADVOCATING FOR BETTER POLICE ACCOUNTABILITY

Burlington

Earlier this year, the Iowa Public Information Board ruled that police can keep body and dash camera footage and 911 calls secret along with many other public records surrounding police use of force.

But keeping such footage secret allows police to hide excessive force and illegal behavior.

So in March the ACLU appealed the decision on behalf of Adam Klein, the attorney for the estate of Autumn Steele, an unarmed Burlington mother who was fatally



BODY CAMERAS

» We must protect the ability of journalists and others to get footage of high-interest incidents. »

RITA BETTIS AUSTEN
ACLU of Iowa
Legal Director

shot by police. Police then withheld body camera footage and other records.

Such records should be kept confidential only if they would plainly and seriously jeopardize an investigation, or endanger a person, or are otherwise private under the law.

CHARGED WITH HARASSMENT

» It's ridiculous that I had to get a lawyer to defend my right to free speech. »

JON GOLDSMITH



Mark Stringer speaking at a statehouse rally to support reproductive rights

REPRODUCTIVE RIGHTS

PLANNED PARENTHOOD SEX ED GRANTS PRESERVED

Statewide

Sex education should be the one thing we can all agree on. It helps young people make healthier choices and prevents unwanted pregnancies.

But some Iowa politicians will do everything they can to prevent Planned Parenthood of the Heartland (PPH) from receiving any government money, even in the form of federal grants to provide sex education—and not used for abortions.

After a law passed that blocked PPH from receiving those grants, we filed a lawsuit with Planned Parenthood, protecting the funding in time to continue the sex ed programming in the upcoming year.

SEX ED GRANTS

“This is yet another attempt to shut down the important work of Planned Parenthood.”

MARK STRINGER
ACLU of Iowa
Executive Director

FREE SPEECH

AG GAG REVISITED

Statewide

Almost as soon as Iowa's first “ag gag” law was struck down in federal court in January, Iowa lawmakers moved to create a new law that does essentially the same thing: Give additional penalties—like stiffer fines and even jail time—to journalists or activists who use undercover methods to gain access to agricultural facilities.

So with the same coalition of activists, the ACLU filed another

lawsuit, which we've dubbed Ag Gag 2.0.

Federal courts in other states have struck down similar ag gag laws because they suppress free speech.

One of the lawsuit plaintiffs, Randy Evans of the Iowa Freedom of Information Council says, “It shouldn't be a crime to gather and publicize accurate information about conditions inside ag facilities,” such as meatpacking plants, livestock production facilities and puppy mills.



It's critical that journalists not face jail time for doing investigative reporting work.

“I want to pave the way for other transgender lowans who also desperately need this surgery.”

AIDEN VASQUEZ Southeast Iowa

LGBTQ RIGHTS

MAKING TRANSGENDER RIGHTS HISTORY

Southwest Iowa

In March, the Iowa Supreme Court handed down a historic decision: It ruled unanimously that Iowa's Medicaid program may not categorically discriminate against transgender people who are seeking gender-affirming, medically necessary care under state civil rights law.

But then in April Iowa lawmakers cruelly changed state law to undo the Court's ruling.

The ACLU of Iowa responded by filing

another lawsuit, which in July a Polk County judge dismissed. We immediately appealed and the Iowa Supreme Court has granted expedited review.

One of the clients in that lawsuit is Aiden Vasquez of southeast Iowa. “I am determined to get the medical care I desperately need. I've spent my whole life living in a body that wasn't mine, feeling fake and hopeless,” he said.

“Society shames transgender people just for being who they are. But I'm not hiding anymore. I'm determined to help myself and in that way, also help others.”



Aiden Vasquez, with wife, Tammi, is fighting discrimination by Medicaid.

PROTECTING ACTIVISTS

“It shouldn't be a crime to gather and publicize accurate information about conditions inside food processing plants.”

RANDY EVANS

Iowa FOI Council

CONT. **behind bars**

[Continued from page 1]

We all want to live in safe and healthy communities. Our criminal justice policies should be focused on the most effective approaches to achieve that goal. But our system has failed us. We have to do something different.

THE WAR ON DRUGS HAS FAILED

A major source of the mass incarceration crisis is the failed “war on drugs” and get-tough-on-crime initiatives that are more about tough talk than thoughtful policies that actually work.

As a result, today about half the world's prison population is in the U.S., where we have the highest incarceration rate in the world.

In Iowa, in 2016, about 57 percent of the prison population has a chronic mental health diagnosis. And of those screened for substance abuse in 2011, 46 percent had a *current* drug problem. In fact, one in five people imprisoned in Iowa are serving time for a drug offense.

Clearly, we are taking public health issues—mental illness and drug addiction—and prescribing mass incarceration as the cure.

Mental illness and substance abuse disorders are more appropriately and effectively addressed outside of the criminal justice system altogether. Instead, we need better and more available services for drug

treatment and mental illness and better affordable housing.

It's time we got serious about pulling our money out of incarceration and putting it into systems like these that foster healthy communities.

Cortez Kellum-El of Des Moines, who served a lengthy prison sentence for possession of marijuana with intent to deliver and eluding police, puts it this way: “Putting me in prison for 18 years ain't helping anyone. All it's doing is costing

the government a whole lot of money and keeping me from getting a job and getting on with my life.”

AN INHERENTLY RACIST SYSTEM

Iowa's addiction to mass incarceration as a remedy for society's ills is doubly disturbing because of its inherent racism.

Just under 4 percent of Iowans are Black, but Iowa consistently has one of the highest rates in the nation for locking up Black people. Black adults in Iowa are imprisoned at nearly 11 times the rates of white adults.

Studies indicate that it's not because people of color commit more crimes.

11 times
BLACK ADULTS IN IOWA ARE IMPRISONED AT NEARLY **11 TIMES** THE RATE OF WHITE ADULTS.

A 2013 ACLU study of FBI and other crime data found that a Black person in Iowa is 8 times more likely to be arrested for marijuana possession than a white person, even though both groups use marijuana at about the same rate.

Instead, other things come into play: overpolicing of Black communities and communities of color, implicit bias in law enforcement, racial profiling, and poverty.

Iowa's mass incarceration problem is all the more mind-boggling when you take into account that across the

57%
OF IOWA'S PRISON POPULATION HAS CHRONIC MENTAL ILLNESS*
as of 2016

“It's time to stop over-policing our communities of color.”

MARK STRINGER
ACLU of Iowa
Executive Director

“Putting me in prison for 18 years ain’t helping anyone. All it’s doing is costing the government a whole lot of money and keeping me from getting a job and getting on with my life.” **CORTEZ KELLUM-EL**

political spectrum no one wants it this way. Locking up massive numbers of people not only has tremendous human costs to individuals, families, and communities.

It also carries an enormous financial cost. In 2017, Iowa spent a staggering \$379 million of its general fund on corrections.

87% of people jailed in Iowa are awaiting trial and have not been convicted of a crime.^[2]

It doesn't need to be this way.

If Iowa were to follow the reforms outlined in the ACLU's recent analysis and report, "Smart Justice 50-State Blueprint," 5,428 fewer people would be in prison in Iowa by 2025.

MILLIONS COULD BE SAVED

These reforms would also save money—more than \$360 million by 2025.

As the 50-State Blueprint makes clear, mass incarceration is a national problem. But there are important reforms that we as Iowans must make to create a more fair and functional society.

^[1] As of September 2018

^[2] As of 2015

^[3] As of October 2018

50-state blueprint

A STATE-BY-STATE ACLU PLAN FOR REDUCING MASS INCARCERATION

Mass incarceration is a nationwide problem, but one that is rooted in the states, so it's key that it be addressed by individual states.

That's why the ACLU did a comprehensive analysis, rich with key statistics, that gives a first-ever overview of the criminal justice systems of each state.

The report includes specific action steps for states, with a goal of reducing incarceration by 50 percent. It's also a tool for voters, policymakers, and communities to push for change in our criminal justice system. Find out more at www.aclu-ia.org.

24%

IOWA PRISONS ARE NOW AT THAT MUCH OVER CAPACITY AND ARE PROJECTED TO EXCEED CURRENT CAPACITY BY 43% BY 2027.

KEY REFORMS

- » Decriminalize drug possession across the state.
- » Change laws that criminalize poverty, like unfair court fines and fees.
- » Expand social services and treatment for mental health and substance use needs.
- » Reform the pretrial system for better constitutional protections.
- » Eradicate or restrict practices that discriminate against the poor, like the cash bail system.
- » Eliminate crack and powder cocaine sentencing disparities.
- » Enact parole reform to expand access to early release.

2/3rds OF NEW PRISON ADMISSIONS IN 2017 WERE FOR NONVIOLENT OFFENSES.

300%

BETWEEN 1980 & 2016, IOWA'S PRISON POPULATION MORE THAN TRIPLED.



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Iowa

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Prizing liberty and
maintaining rights
since 1935

voting rights ARE NOT A GAME

But some Iowa politicians have been doing their best to suppress voting rights in new and creative ways.

Here are just a few of their efforts during recent years. Fortunately, along with our voting rights allies, we've been able to help block a number of them from going into effect.

BLUE items have been successfully blocked or ended. Unfortunately **RED** items have actually occurred or gone into effect.

★ B I N G O ★

**Closing
polls
earlier**

**Tougher
deadlines for
some voter
registration
drives**

**Removing
registration
of state
university
seniors
planning to
move out
of Iowa**

**Rejecting
university
photo IDs
as proof of
identity**

**Banning
early
voting in
state
university
buildings**

**Voter ID card
required for
most Iowans
without an
Iowa driver's
license**

**Disenfranchising
Iowans with
aggravated
misdemeanors**

**Making
inactive
voters who
didn't vote in
a presidential
election**

**Discarding
absentee
ballots if
signatures
don't match
previous ones**

**Reducing
the absentee
voting period
from 40 days
to 29 days**

**Sending
threatening
letters to
immigrants
about voter
fraud**

**Not allowing
use of voter
registration
information to
verify absentee
voter requests**



**Falsely
alleging
wide-
spread
voter fraud**

**Wrongly
telling voters
ID was needed
before it
actually was**

**Blocking
people
with felony
convictions
from voting
for life**

**Confusing
wording
on voter
registration
forms**

**Scheduling
a Cedar
Falls special
election when
most students
were gone**

**Wrongly listing
voters as
having felonies
and being
disqualified to
vote**

**No longer
allowing
straight-
ticket
voting**

**Requiring an
Iowa driver's
license or
non-operator
ID for online
registration**

**Changing the
hotline for
voters seeking
info to include
voter fraud
reporting**

**Making
inactive
registration
of voters not
responding to
mailed
notices**

**Voter
ID**

**Hiring a DCI
investigator
to hunt down
alleged voter
fraud**