

LIBERTY

Winter 2016

ACLU of North Carolina Newsletter



Photo: Flickr/Shannon O'Toole

It's Time to Stop Solitary Confinement

In 2014, North Carolinians were stunned and horrified by the death of Michael Anthony Kerr, who was found unresponsive in a van after being transferred between prisons following 35 days in solitary confinement. Kerr, a 53-year-old former Army sergeant, suffered from schizophrenia, and his cause of death was determined to be dehydration. Many questions remain about why he did not receive proper treatment.

On any given day, as much as 14 percent of North Carolina's 37,500 prison inmates are locked away in solitary confinement—often for such minor offenses as using profanity. There, they are isolated for 23 to 24 hours a day, without sunlight, fresh air, or contact

with human beings. More than one in five of those prisoners placed in isolation requires some type of treatment for mental health issues, according to a 2015 UNC Law report that found that the use of solitary confinement exacts profound physical and psychological harms akin to torture.

In response to this dire situation, the ACLU-NC has been working for the past year with a coalition of human rights groups in order to investigate North Carolina's solitary confinement practices and advocate for change. In August, the coalition sent a letter asking the U.S. Department of Justice to open an official investigation into the use of solitary confinement in North Carolina prisons. The letter was sent weeks after

continued on page 3

"Do we really think it makes sense to lock so many people alone in tiny cells for 23 hours a day, sometimes for months or even years at a time? That is not going to make us safer. That's not going to make us stronger. And if those individuals are ultimately released, how are they ever going to adapt? It's not smart."

President Obama, in a major speech on criminal justice reform in July.

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acluofnc.org

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Because Freedom Can't Protect Itself

LIBERTY

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A Critical Time for Civil Liberties

During another tumultuous legislative session, extremists in the North Carolina General Assembly passed laws attacking due process, reproductive freedom, LGBT equality, immigrants' rights, and so many other hard-won civil liberties that we all hold dear. The ACLU-NC remained vigilant, lobbying lawmakers on dozens of issues. In several instances, our work helped prevent bad laws from becoming worse or stopped them altogether. See pages 4–5 to read more about our work this legislative session.

Fortunately, the work of the ACLU-NC goes beyond the legislature. Our legal staff continues to work in courts across the state to safeguard liberties for all North Carolinians, from voting rights to religious freedom (see page 7), and our policy staff are lobbying local governments on a range of important constitutional issues. Our free Mobile Justice smart phone app has empowered more than 10,000 North Carolinians to document encounters with police when they believe civil rights are being violated.

And our hardworking staff members are helping to lead a coalition of human rights groups in a campaign to improve treatment for inmates with mental illness and curb the barbaric use of solitary confinement in North Carolina (see pages 1 and 3).

At this crucial moment in our state's history, it is so important that the ACLU-NC and our partners have the resources we need to combat threats to civil liberties wherever they occur. All the advances we have made over the last 50 years would have been impossible without the support of members like you. Please consider increasing your support by making a donation through the enclosed envelope.

Together, we can turn the tide in North Carolina and ensure that liberty, justice, and equality are guaranteed to every North Carolinian. ■■



Sarah Preston
ACLU of North
Carolina Acting
Executive Director

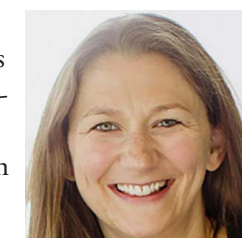
Susanna Birdsong Joins ACLU-NC as Policy Counsel

The ACLU-NC expanded its legislative team this fall with the addition of Susanna Birdsong, who started work in August as the organization's new policy counsel.

Susanna plays an integral role in the ACLU-NC's legislative and policy program, educating federal, state, and local policy makers on civil liberties issues as well as working in communities to build grassroots support for the

ACLU's legislative priorities.

Since joining the office, she has successfully lobbied for the passage of Wake County's LGBT employment nondiscrimination ordinance, talked about the need for greater police accountability with law enforcement agencies across the state, and represented the ACLU-NC on a range of issues in the halls of the General Assembly.



Susanna Birdsong

Before moving home to North Carolina and joining the ACLU-NC, Susanna completed a two-year legal fellowship at the National Women's Law Center, where she educated federal lawmakers and staff on preserving and strengthening policies related to family economic security. ■■

Solitary Confinement *continued from page 1*

President Obama ordered the Justice Department to review the use of solitary confinement across the country and criticized the practice in a major speech on criminal justice reform.

The 15-page letter – signed by the ACLU's National Prison Project, the ACLU of North Carolina, North Carolina Prisoner Legal Services, the University of North Carolina School of Law Human Rights Policy Seminar, the UNC Center for Civil Rights, and North Carolina Stop Torture Now – chronicles the death of Mr. Kerr and the mistreatment and horrific conditions suffered by other inmates held in solitary confinement. The letter also documents North Carolina's failure to provide adequate resources for prison mental health services and explains how inmates with mental illness are regularly disciplined for manifestations of their illness and often released directly to the community after months or years in isolation.

"Understaffed, underfunded, and plagued by arbitrary standards, insufficient oversight, and inadequate resources for inmates with mental illness, North Carolina's solitary confinement regime must

change," the letter reads. "However, governmental efforts and calls from the media and the public have resulted in little meaningful reform. Every day that the status quo endures without intervention, North Carolina's system for housing inmates in solitary confinement claims more victims to needless suffering and death."

In his proposed 2016 budget, Gov. Pat McCrory allocated \$24.5 million in mental health improvements in

state prisons. But the General Assembly slashed that amount in half, approving only \$12.1 million, or less than five times what the state paid to the family of Michael Kerr alone in a settlement after his death.

The federal government has not yet announced plans to investigate solitary confinement in North Carolina, but the ACLU and its coalition partners continue to lobby state officials to enact meaningful reforms, while also investigating other possible legal strategies. North Carolina, like the rest of the country, should end the barbaric practice of locking people in solitary confinement once and for all. ■■

Children are held in solitary too

The impact of solitary confinement on children is especially severe. Of the tens of thousands of children under the age of 18 who are incarcerated on any given day in the United States, many will experience some period of solitary confinement. More than half of the kids who commit suicide in juvenile facilities are in solitary confinement when they die.

Locking kids alone in a cell for 22-24 hours a day is child abuse – plain and simple. If you locked your kid in a closet, you'd go to jail. But the government locks kids in isolation every day. This treatment is inexcusable. Join the conversation on Twitter at #stopsolitary.

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You have the right to film police

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Visit acluofnc.org/app for more information.



Governor McCrory Signs Anti-Immigrant Bill Into Law

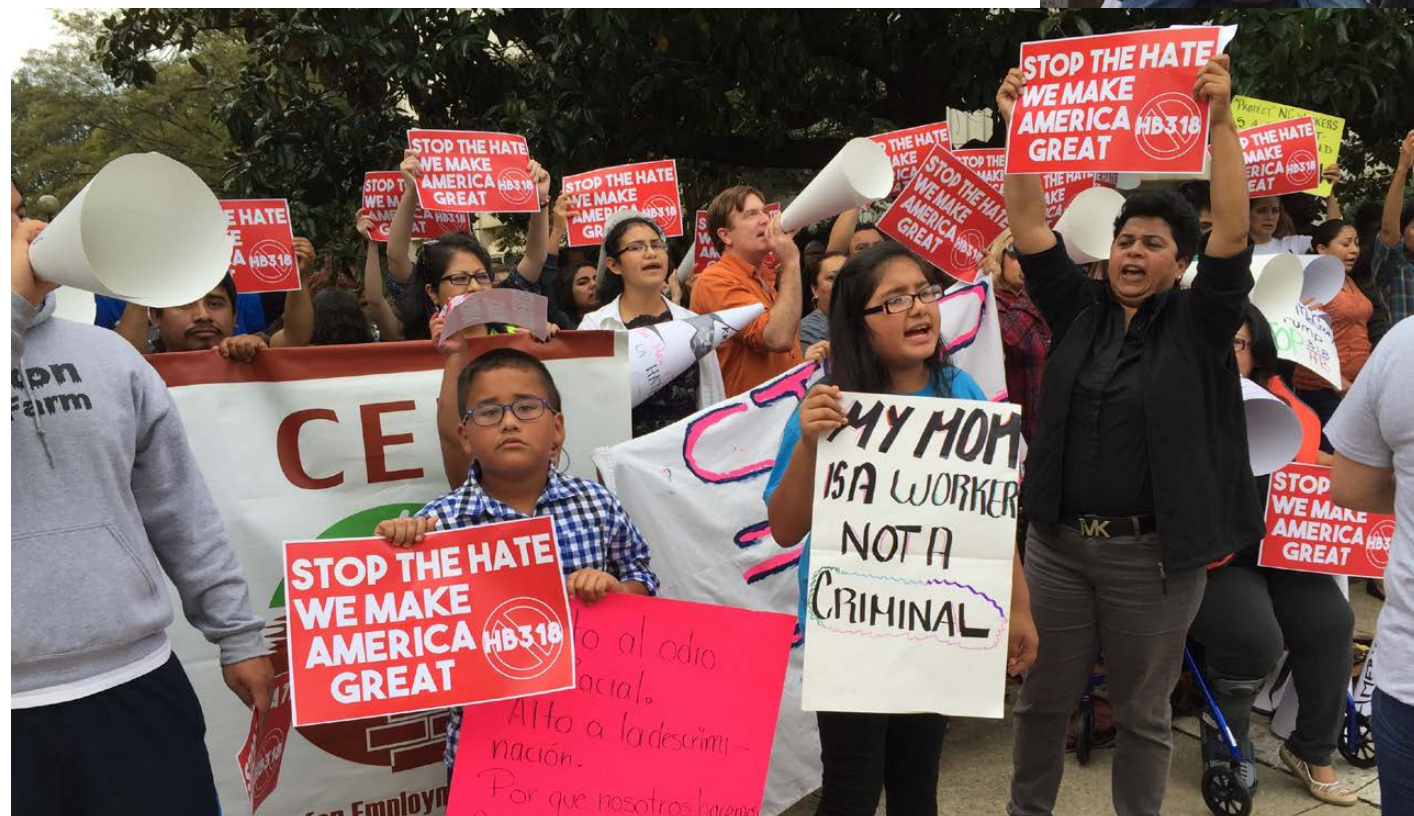
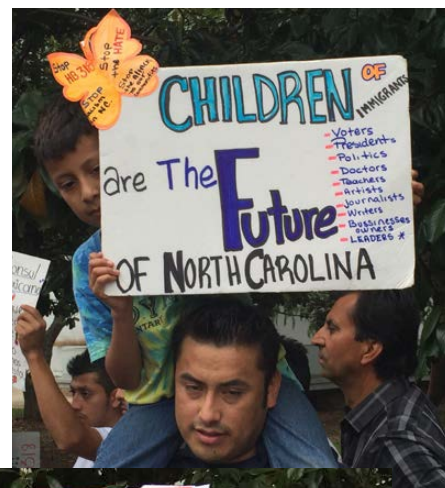
In October, North Carolina Governor Pat McCrory signed HB 318, a law that targets North Carolina's immigrant community and makes it harder for local governments to set policies limiting the enforcement of federal immigration law.

HB 318 prohibits government officials, with the exception of law enforcement officers in some cases, from accepting certain documents, such as matricula consular documents and municipal IDs, to determine a person's actual identity or residency. It also prohibits local governments from adopting so-called "sanctuary" ordinances that limit the enforcement of federal immigration laws, and invalidates those that currently exist in North Carolina. Among the local policies the law invalidates are those designed to encourage witnesses and victims of crime to contact and cooperate with law enforcement officers.

"By making it harder for people to identify themselves to government officials, discouraging undocumented people from reporting crime, and banning local governments from

passing measures aimed at improving public safety, this law makes all North Carolinians less safe," said Sarah Preston, acting Executive Director of the ACLU of North Carolina. "Immigrants play important roles in our communities and economy. Laws like this encourage discrimination, send the message that North Carolina is unwelcoming, and make it harder for law enforcement officers to do their job keeping all members of the community safe."

The ACLU-NC is working with a coalition of organizations to determine the full impact HB 318 will have on North Carolina and investigate potential legal challenges. ■■



Legislative Report Card Shows Major Setbacks for Civil Liberties in 2015

The North Carolina General Assembly's 2015 session witnessed major setbacks for civil liberties in the state, according to a legislative report card released this fall by the ACLU-NC.

We graded North Carolina House and Senate members' votes on five key bills, respectively, all of which the ACLU-NC opposed for their negative impact on civil liberties. Four of the bills graded were signed into law by Gov. Pat McCrory.

LGBT Equality

The House and Senate approved and overrode Gov. McCrory's veto of Senate Bill 2, which allows magistrates and other government officials to opt-out of conducting marriages for legally eligible couples. Sponsors said the bill was a response to same-sex couples winning the freedom to marry in North Carolina.

Capital Punishment

The House and Senate approved and Gov. McCrory signed HB 774, which allows the state to hide the source of drugs used in executions and removes the requirement that a doctor be present at all executions.

Reproductive Justice

The House and Senate approved and Gov. McCrory signed HB 465, which tripled the mandatory waiting period for a woman seeking an abortion to 72 hours.

Immigrants' Rights

The House and Senate approved and Gov. McCrory signed HB 318, which prohibits local governments from adopting so-called "sanctuary" ordinances limiting enforcement of federal immigration law and prohibits some government officials from accepting various forms of ID cards.

In the House, 22 members voted 100% in line with the ACLU-NC's position on these issues, while 33 members voted in favor of the ACLU-NC's position 0% of the time. In the Senate, 11 members voted in line with the ACLU-NC's position 100% of the time and 20 members voted in favor of the ACLU-NC's position 0% of the time.

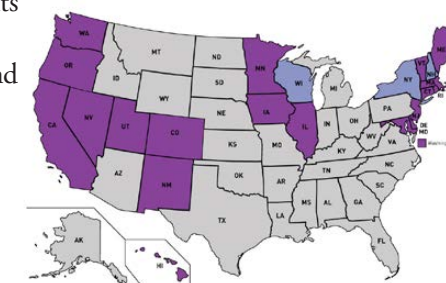
See how your representative voted at acluofnc.org. ■■

ACLU-NC Helps Defeat Surprise Move to Sanction Discrimination

Under cover of night, and less than 48 hours away from the close of the nine month legislative session in September, members of the General Assembly attempted—once again—to sanction discrimination against LGBT North Carolinians.

A provision negotiated in secret by a group of appointed House and Senate members was inserted into SB 279, an unrelated bill on licensing requirements for counselors, and would have stripped local governments of their ability to pass ordinances protecting LGBT residents from discrimination in employment, housing, and public accommodations.

In the waning hours of the legislative session, the ACLU and our allies worked tirelessly to educate both members of the General Assembly and the public about the devastating discriminatory consequences of such a law. A broad coalition that included civil rights groups, faith leaders, and local governments came together to stand up and fight—and we won. The discriminatory provision was removed from the bill just after midnight on the last night of the legislative session sending the message loud and clear that the General Assembly has no business interfering in local decisions to enact anti-discrimination policies. To date, many communities across North Carolina—including Buncombe, Durham, Mecklenburg, and Wake counties, and the cities of Asheville, Boone, Chapel Hill, Carrboro, Charlotte, High Point and Raleigh—have passed ordinances protecting LGBT residents from discrimination, with popular local support. Wake County is the newest addition to this list, after its commissioners unanimously voted in September to amend employee nondiscrimination provisions to include LGBT protections. The ACLU-NC supported that effort and will continue to work with allies to support other local anti-discrimination proposals and continue pushing for a statewide LGBT nondiscrimination law in North Carolina. ■■



A 2013 Public Policy Polling survey found that 71% of North Carolina voters believe employers should not be able to discriminate against employees based on their sexual orientation, but it is still legal to fire or refuse to hire someone because of their sexual orientation in much of North Carolina and other states across the country, shown in gray.



ACLU-NC Legal Director Chris Brook speaks at an October 2014 press conference at the LGBT Center of Raleigh alongside plaintiffs in two ACLU lawsuits that successfully challenged North Carolina's ban on marriage for same-sex couples.

Chris Brook Honored with LGBT Center's Community Impact Award

The LGBT Center of Raleigh honored ACLU-NC Legal Director Chris Brook with its 2015 Community Impact Award at its Annual Awards Gala on October 15. James Miller, the Center's executive director, said Chris was selected in recognition for his work to secure the freedom to marry for same-sex couples in North Carolina and help advance legal equality for all LGBT North Carolinians.

"The LGBT Center of Raleigh has a strict criteria for our LGBT Award Recipients, including high impact and visibility in our community," Miller said. "But what truly stands out about Chris Brook is his unfettered dedication to the entirety of our community. The work that he has engaged in through the ACLU of North Carolina stands as a testament not only to the organization, but also to his adeptness in the practice of law. His ability to take highly complicated legal models and explain them in a way that every community member can understand is one of his greatest strengths as a leader." ■

Chapter updates

Wake County Chapter Awards Civil Rights Advocates



Lightner

The ACLU-NC's Wake County chapter honored Raleigh activist Bruce Lightner and Advocates for Children's Services at its annual W.W. Finlator Awards Dinner on November 10.

Lightner, a longtime community activist who founded the Raleigh/Wake Martin Luther King Jr. Celebration Committee, received the W. W. Finlator Award, presented annually to recognize an individual for outstanding civil rights advocacy.

Advocates for Children's Services, a project of Legal Aid of North Carolina, was honored with the Wake County Civil Liberties Award, which recognizes an organization for extraordinary contributions to advocacy or defense of civil liberties. The group represents and assists students with learning disabilities to obtain or receive appropriate individualized education programs. It also seeks to discourage disproportionate treatment of children of color in the school system.

The evening's keynote speaker was Ajamu Dillahunt, a community educator who previously served as

the senior outreach coordinator of the NC Justice Center's Workers Rights Project, president of the Raleigh-area Local of the American Postal Workers Union (APWU) and Director of Research and Education for the North Carolina Council of the APWU. ■



Ajamu Dillahunt

Court to Hear Appeal of ACLU-NC Victory in Rowan County Prayer Case

The Fourth Circuit Court of Appeals will hold oral arguments in the appeal of a ruling that found Rowan County Commissioners violated the Constitution when they opened virtually all of their public meetings by directing audience members to stand and join them in a prayer. Ninety-seven percent of the time that prayer was specific to one religion, Christianity. The arguments are tentatively scheduled for the last week in January.

ACLU-NC Legal Director Chris Brook will present arguments on behalf of Rowan County residents Nan Lund, Robert Voelker, and Liesa Montag-Siegel, who the ACLU-NC Legal Foundation and national ACLU Program on the Freedom of Religious and Belief are representing in a challenge to Rowan County's unconstitutional and

coercive prayer practice. The plaintiffs, who do not share the commissioners' religious beliefs, say they felt excluded by the invocations and forced to participate or risk raising the ire of the very same board members whom they often were petitioning on an issue.

The case could be the first time a federal appeals court weighs in on government prayer issues since the U.S. Supreme Court ruled in 2014 that the invocation practice of Greece, New York, where invited clergy from more than one faith delivered prayers for board members, was constitutional. In briefs filed earlier this year, the ACLU and our clients argue that there are key distinctions between the practices in Greece and Rowan County, where the officials themselves deliver prayers and instruct all present to stand, and that even after the Supreme



ACLU-NC Legal Director Chris Brook with Rowan County plaintiffs Nan Lund, Bob Voelker, and Liesa Montag-Siegel.

Court's decision, there remain real constitutional limits on government-sponsored prayer. Visit acluofnc.org to read the ACLU's brief. ■

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Featuring Keynote Speaker Dale Ho, Director of the ACLU's voting Rights Project. Dale supervises the ACLU's voting rights litigation nationwide, with active cases in over a dozen states throughout the country, including the ACLU's challenge to North Carolina's 2013 voter suppression law that reduces early voting and eliminates same-day registration.

Visit acluofnc.org for details on award nominations, tickets, and other sponsorship opportunities.



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