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ACLU OF NEBRASKA ANNOUNCES PRISON LITIGATION ADVISORY PANEL

February 12, 2015

Several trial attorneys join ACLU in efforts to reform crisis-ridden prison system

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FOR IMMEDIATE RELEASE

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Lincoln, NE - Today the ACLU of Nebraska announced the formation of a trial lawyer's panel to provide advice and oversight for potential prison litigation in Nebraska. According to the ACLU, the panel will advise on legal remedies for unconstitutional prison conditions including both individual cases and class actions. The unconstitutional prison conditions have been caused by overcrowding with the system currently at 159% of capacity. The ACLU says the Eighth Amendment's prohibition of cruel and unusual punishment, the Americans with Disabilities Act, the Rehabilitation Act, and other federal laws could be violated by continued failure to meet minimum custodial standards, mistreatment and

inadequate care for mentally ill and vulnerable inmates, abusive overuse of solitary confinement, and overall, a major reduction in the rehabilitation function of “corrections” in our state.

“Decades of misguided ‘throw away the key’ policies have led to a criminal justice system that is at a crisis point. Our current system comes with a high price tag for taxpayers and while experiencing a crisis of capacity the Department’s resources are stretched so thin it cannot meet public safety goals for the vast majority of those incarcerated who will be released back into our communities. The time for action is now,” said ACLU of Nebraska Executive Director Danielle Conrad. “We urge the Nebraska Legislature to enact significant front end sentencing reforms that will reduce overcrowding and provide judges with more discretion to make sure the punishment fits the crime. We urge the Nebraska Legislature to enact alternatives to prison for non-violent offenders to reduce mass incarceration and ensure our criminal justice system investments are smart. We urge the Nebraska Legislature to enact immediate reforms to the use of solitary confinement and in particular its impact on those with serious mental illness. If meaningful reforms are not enacted we may use litigation to resolve the Eighth Amendment violations present in Nebraska’s prison system. The ACLU of Nebraska is grateful to have the support and expertise of these highly successful lawyers to guide our prison litigation efforts if and when the need arises.”

“The distinguished lawyers on this panel will help to accelerate reform efforts to pull Nebraska’s corrections system back from the brink. Nebraska law provides that ‘the Governor may declare a correctional system overcrowding emergency whenever the director certifies that the population is over one hundred forty percent of design capacity,’ Existing overload is at a level of about 159%. Many individual institutions have reached 200-300% of their design capacity. That is exactly what ‘the brink’ looks like.” said Alan Peterson of Lincoln, ACLU of Nebraska Senior Counsel.

In 2014, the ACLU of Nebraska authored three groundbreaking reports on prison conditions and risk of litigation. These reports documented conditions of confinement and identified legal issues ripe for litigation. The first of many

potential lawsuits have already been placed on file against the state of Nebraska challenging conditions of confinement and alleging deliberate indifference to the serious deprivations of those incarcerated.

Initial members of the **ACLU Nebraska Prison Litigation Advisory Panel** include:

- Robert F. Bartle- Bartle & Geier Law Firm, Lincoln NE. Former President of Nebraska State Bar Association, experienced litigator, including general trial practice, civil rights, wrongful imprisonment;
- Marsha Fangmeyer- Knapp, Fangmeyer, Aschwege, Besse & Marsh, P.C. Kearney, NE. Former President of the Nebraska State Bar Association, general practice with emphasis on family law and a wide range of litigation.
- Sean Brennan-Brennan and Nielsen law offices, Lincoln NE. Former President of the Nebraska Criminal Defense Attorney's Association, former president of the Lincoln Bar Association and frequently appointed to serve as special prosecutor to conduct grand jury investigations of "in custody" death cases. Counsel to the Special Investigative Committee of the Nebraska State Legislature concerning Nikko Jenkins case and wrongful inmate release issues;
- David Fathi- Director of the Prison Project of the national ACLU, Washington D.C. Highly experienced litigation counsel in areas of prison overcrowding, abuse of prison "segregation," failure to treat mentally ill inmates and related issues. Conducted successful class action prison litigation strategies in numerous states;
- Maren Chaloupka- Chaloupka, Holyoke, Hofmeister, Snyder & Chaloupka, LLO Scottsbluff NE. Experienced litigator with expertise in civil rights and criminal law. State leader on issues of abuse of inmates, deliberate indifference/ cruel and unusual punishment issues, neglect leading to self-harm by inmates, federal and state litigation practice and procedure;
- Denise Frost- Johnson and Mock, Omaha NE. Former President of the Nebraska Criminal Defense Attorney's Association, experienced litigator with expertise in the fields of criminal defense and civil rights practice;
- Michael D. Gooch- Omaha NE. Former correctional officer, longtime public defender in Lancaster County, experienced litigator in the fields of criminal

defense and civil rights;

- Robert W. Mullin- Houghton Vandennack Williams, Omaha NE. Former President of the Nebraska State Bar Association, experienced trial attorney, Fellow of the American College of Trial Attorneys, civil rights and general litigation;
- Gerald "Jerry" Soucie- Lincoln, NE. 35 years of criminal defense - both trials and appellees. Lead counsel on several Nebraska cases involving sentencing and prison issues.
- Amy Miller, Lincoln, NE, Legal Director of ACLU of Nebraska, experienced civil rights and civil liberties attorney;
- Alan Peterson, Lincoln, NE, Senior Counsel to ACLU of Nebraska, general trial attorney, civil rights and liberties, death penalty defense litigation.

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