

January 3, 2019

The Hon. Mitch McConnell
Majority Leader
U.S. Senate
Capitol Building, S-230
Washington, D.C. 20510

The Hon. Charles Schumer
Minority Leader
U.S. Senate
Capitol Building, S-221
Washington, D.C. 20510

The Hon. Nancy Pelosi
Speaker
U.S. House of Representatives
Capitol Building, H-204
Washington, D.C. 20515

The Hon. Kevin McCarthy
Minority Leader
U.S. House of Representatives
Capitol Building, H-107
Washington, D.C. 20515



Re: ACLU Priorities for the 116th Congress

Dear Senate and House Leadership:

Washington Legislative
Office
915 15th Street, 6th FL
Washington DC 20005
T: (202) 544-1681
aclu.org

Susan Herman
President

Anthony Romero
Executive Director

Faiz Shakir
*National Political
Director*

On behalf of the American Civil Liberties Union (ACLU), as the 116th Congress begins a new session, we write to inform you of our priorities for this year. We call on Congress to protect and fight for the right to vote, the right to a just immigration and criminal justice system free from abuse and discrimination, the right to earn a living without facing harassment or discrimination, and the right to fully-lived equality for LGBTQ people, and urge Congress to act on these pressing civil rights and civil liberties issues.

For nearly 100 years, the ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee to all people in this country. With more than three million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C. for the principle that every individual's rights must be protected equally under the law, regardless of race, religion, gender, sexual orientation, gender identity or expression, disability, national origin, or record of arrest or conviction.

The ACLU will use its unprecedented reach to hold elected representatives accountable. We have prioritized not only protecting, but expanding civil rights and civil liberties, so that

everyone is truly free to fully participate in our democracy. This Congress, we will continue to use our scorecard and monitor congressional activity to provide your constituents and our members and activists with a perspective on their congressional members' civil rights and civil liberties record for the 116th Congress. We are dedicated to the principles of individual liberty, uncompromising justice, and equality for all. In that spirit, we offer the following list encompassing some of our top priorities that members should take up to help protect and expand our civil liberties.

Immigration

The 2018 midterm election confirmed that voters wish to uphold the American values of liberty and justice for all. Oregonians defeated an anti-immigrant ballot measure¹, reaffirming no one should be targeted based on the color of their skin, their accent, or their perceived immigration status. Voters in Wake County, North Carolina rejected collaboration with² President Trump's deportation and detention force. Kansans refused to promote the president's accomplice, Kris Kobach³ — notorious for his assaults on immigrants and voting rights — to governor. To continue the momentum, the 116th Congress must rein in the unchecked abuse of immigrants by the Trump administration's detention and deportation force by:

- Decreasing the Department of Homeland Security's massive budget, which disproportionately allocates funds to Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP)—the sub-agencies primarily responsible for terrorizing immigrants. Specifically, Congress must reduce these agencies' budgets for detention, interior and border enforcement, and eliminate funding for ineffective and harmful border barriers. It must also end the ability of these agencies to overspend beyond their means, including the ability to transfer or reprogram funds from other parts of the government;
- Enacting permanent protections for long-time residents of the U.S., including Dreamers and Temporary Protected Status (TPS) recipients and reform the

¹ Statesman Journal, *Oregon and Marion County Election Results: General* (Nov. 6, 2018) <https://data.statesmanjournal.com/election-results/>; Tanushree Bansal, *Oregon Voters Defeat Anti-Immigrant Ballot Measure*, ACLU The Campaign Blog, (Aug. 3, 2018) <https://www.aclu.org/blog/immigrants-rights/state-and-local-immigration-laws/oregon-voters-defeat-anti-immigrant-ballot>.

² Ballotpedia, *Municipal elections in Wake County, North Carolina (2018)* [https://ballotpedia.org/Municipal_elections_in_Wake_County,_North_Carolina_\(2018\)#Sheriff](https://ballotpedia.org/Municipal_elections_in_Wake_County,_North_Carolina_(2018)#Sheriff) (last visited Dec. 13, 2019); Natalie Montelongo, *Sheriff Donnie Harrison, Proponent of Anti-Immigrant Measures, Defeated in North Carolina* (Oct. 30, 2018), <https://www.aclu.org/blog/immigrants-rights/state-and-local-immigration-laws/sheriff-donnie-harrison-proponent-anti>.

³ Ballotpedia, *Kansas gubernatorial and lieutenant gubernatorial election, 2018* https://ballotpedia.org/Kansas_gubernatorial_and_lieutenant_gubernatorial_election,_2018 (last visited Dec. 13, 2018); Brian Tashman, *The State Officials Who Have the Power to Suppress the Vote*, ACLU (Oct. 31, 2018) <https://www.aclu.org/blog/voting-rights/fighting-voter-suppression/state-officials-who-have-power-suppress-vote>.

broken immigration laws that enable Trump's inhumane mass detention and deportation agenda;

- Protecting due process and defending against attacks on immigrants' rights, including by rejecting the criminalization of immigrants, the systematic dismantling of the immigration court system and asylum process, expansion of detention and deportation, and the increased creep of ICE's draconian enforcement regime into other agencies and basic government services; and
- Ensuring oversight and accountability with hearings and investigations into—but not limited to—family separation, detention (including deaths in ICE and CBP custody), and the relentless attacks on migrants and asylum seekers at our southern border.

Voting Rights

Building on the success of Amendment 4 in Florida, which restored voting rights to 1.45 million formerly incarcerated individuals in that state, Congress can restore the right to vote in federal elections to another 4.7 million people in our country who have paid their debt to society. This Congress can also move to protect the right to vote for voters with disabilities, and fight voter suppression and discrimination. There are several ways this Congress can protect and restore the right to vote by:

- Passing the Voting Rights Advancement Act (VRAA), which would restore protections that prevent and combat racial discrimination in voting in all elections;
- Passing the Voter Empowerment Act, which would expand and modernize access to voting by advancing automatic, universal, online, and same-day voter registration; early voting and vote by mail; improvements for voters with disabilities; poll worker recruitment and training; and much more;
- Passing the Democracy Restoration Act (DRA), which would restore voting rights for 4.7 million formerly incarcerated individuals who have paid their debt back to society and are living in their community but are still denied the right to vote in federal elections;
- Holding hearings on voter suppression practices that have infected the electoral process, including voter ID laws that suppress turnout and impact elections, voter purges, misinformation campaigns (including through social media), closing or changing of polling locations, and problems associated with absentee ballots and provisional ballots; and
- Investigating the Justice Department's enforcement of the Voting Rights Act, National Voter Registration Act, and Help America Vote Act.

Women's Rights

A few weeks ago, Congress unanimously adopted the Congressional Accountability Act of 1995 Reform Act, providing needed updates to the way the legislative branch addresses harassment in its workforce. This was a significant step forward.

But many challenges remain and voters sent a record number of women to this Congress in order to advance equality and, at minimum, ensure that all workplaces are free from discrimination. Congress can work toward this goal by:

- Passing legislation to expand and strengthen civil rights and workplace protections against harassment and discrimination. Now is the time to shine a spotlight on the pervasive abuse faced by workers across the country who labor in low wage jobs and whose stories are absent from the headlines. Legislative reforms must restore power to working people, limit employer-imposed secrecy, advance transparency, remove barriers to accessing justice, strengthen existing protections against retaliation, and promote prevention.
- Passing the Pregnant Workers Fairness Act – which would combat pregnancy discrimination by making clear that employers must provide workers with reasonable accommodations for pregnancy-related medical conditions – because no woman should have to choose between a paycheck and a healthy pregnancy.

LGBTQ Rights

With the Trump administration continuing its crusade to dramatically roll back protections for transgender people, it's more important than ever that federal law explicitly protects LGBTQ people and includes them in our nation's civil rights laws.⁴ This Congress can expand protections for LGBTQ people by:

- Passing the Equality Act, which would provide comprehensive, nationwide civil rights protections to LGBTQ people by explicitly prohibiting discrimination against individuals on the basis of sexual orientation and gender identity, as well as fills gaps in the Civil Rights Act for women and people of color. The Equality Act also would defeat the Trump administration's efforts to dramatically roll back existing protections for LGBTQ people by reaffirming—consistent with decades of legal developments—that discrimination against LGBTQ people is a form of sex discrimination.

Criminal Justice

It is long past time to reimagine our justice system as one that ensures fairness and equity at all stages: from policing to pretrial, sentencing to reentry. The 116th Congress should act by:

⁴ Erica L. Green, Katie Benner, and Robert Pear, *'Transgender' Could Be Defined Out of Existence Under Trump Administration*, New York Times (Oct. 21, 2018), <https://www.nytimes.com/2018/10/21/us/politics/transgender-trump-administration-sex-definition.html>; James Esseks, *The Trump Administration Is Trying to Erase Trans People, but the Law Clearly Protects Them*, ACLU Speak Freely Blog (Oct. 22, 2018), <https://www.aclu.org/blog/lgbt-rights/transgender-rights/trump-administration-trying-erase-trans-people-law-clearly>.

- Holding oversight hearings to examine the Justice Department’s “law and order” policies and programs regarding local police departments, including data collection and investigations of police misconduct.
- Continuing the work of the FIRST STEP Act that was passed in 2018 by revisiting retroactively applying the sentencing provisions that reduced the mandatory life sentence for a third drug felony to 25 years, and the 20-year mandatory minimum for a second drug felony to 15 years, as well as changes to 18 U.S.C 924(c) “stacking” of gun enhancements.

Russian Interference

This Congress must hold the president and his campaign publicly accountable for any misconduct with Russian interference in the 2016 election, 2018 midterms, and any illegal effort to cover up misconduct. The Congress can ensure public accountability by:

- Holding oversight hearings calling for a full and thorough investigation into Russian interference. These hearings should be open to the public, going into closed session only for the limited purpose of discussing classified information.

These are only a few of the ACLU’s priorities for 2019. There is much more the new Congress needs to turn its attention to, such as guaranteeing access to safe abortion care for women nationwide; protecting consumer privacy; and reforming the government’s surveillance powers. The ACLU stands ready to work with you to achieve these goals.

If you have any additional questions, please feel free to contact Jesselyn McCurdy or Chris Anders, Deputy Directors of the ACLU’s Washington Legislative Office, at jmccurdy@aclu.org or (202) 675-2307 and canders@aclu.org or (202) 675-2308.

Sincerely,



Faiz Shakir
National Political Director



Jesselyn McCurdy
Deputy Director, Washington
Legislative Office



Christopher Anders
Deputy Director, Washington Legislative Office

cc: Members of the U.S. Senate and House of Representatives