



April 1, 2021

Via Email: [AsmJUD@asm.state.nv.us](mailto:AsmJUD@asm.state.nv.us)

The Honorable Steve Yeager, Chairman  
Assembly Committee on the Judiciary  
Nevada State Legislature  
401 S. Carson St.  
Carson City, NV 89701

Dear Chairman Yeager and Members of the Assembly Committee on the Judiciary:

I write on behalf of the National Association of Criminal Defense Lawyers (NACDL) to express our support for AB 395, legislation to repeal the death penalty in Nevada. Capital punishment is a racially discriminatory, arbitrary, and archaic system with grave costs, both moral and financial. The time for abolition is now.

NACDL is the preeminent organization advancing the mission of the criminal defense bar to ensure justice and due process for persons accused of crime or wrongdoing. A professional bar association founded in 1958, NACDL's many thousands of direct members in 28 countries – and 90 state, provincial and local affiliate organizations totaling up to 40,000 attorneys – include private criminal defense lawyers, public defenders, military defense counsel, law professors and judges committed to preserving fairness and promoting a rational and humane criminal justice system. Critical to this mission are NACDL's efforts to identify and reform flaws and inequities in the criminal legal system, and specifically address systemic racism and its impact on the administration of justice.

NACDL has been an outspoken critic of the death penalty system, which countless studies have shown to be arbitrary, discriminatory, costly and fraught with error. Because we believe that no amount of tinkering will save the death penalty from its inherent flaws, NACDL supports abolition.

The fallibility of the death penalty system is beyond question. Since 1973, 185 individuals sentenced to death have been exonerated, including Roberto Miranda<sup>1</sup> and Paul Browning<sup>2</sup>, who spent decades on Nevada's death row for crimes they did not commit. Many others have had their sentences commuted to life imprisonment because of serious doubts about their guilt. Tragically, some have been executed even

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<sup>1</sup> "Roberto Miranda," The National Registry of Exonerations, June 20, 2012, <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3477>.

<sup>2</sup> "State Courts in Nevada, Pennsylvania Rule Prosecutorial Misconduct Bars Retrial, Exonerating Paul Browning and Kareem Johnson," Death Penalty Information Center, June 2, 2020, <https://deathpenaltyinfo.org/news/state-courts-in-nevada-pennsylvania-rule-prosecutorial-misconduct-bars-retrial-exonerating-paul-browning-and-kareem-johnson>.



despite serious questions concerning their innocence. Once an execution has been carried out, there is no chance for correcting mistakes.<sup>3</sup>

Capital punishment is, and has always been, applied in a racially discriminatory manner. Researchers have found patterns of race-of-defendant or race-of-victim discrimination, or both, in 96 percent of states where there have been studies on race and the death penalty.<sup>4</sup> Nationally, the death penalty is significantly more likely to be utilized in cases with Black defendants and cases with white victims; 42 percent of individuals on death row are Black and 75 percent of executions for murder are in cases with white victims.<sup>5</sup> Nevada's death row mirrors these deep racial disparities, with Black people comprising 40 percent of individuals on death row, despite making up only about 10 percent of the state's total population.

Leading criminologists overwhelmingly agree there is no evidence that capital punishment deters violent crimes, yet each death penalty case leads to significantly higher costs and years of litigation and holds out a false promise of closure to the family members of murder victims. A Nevada legislative audit found that capital litigation costs about three times more than non-death penalty first-degree murder cases, regardless of whether a death sentence is ultimately imposed.<sup>6</sup> In Clark County alone, prosecutors have sought the death penalty in over 130 cases in the past ten years, costing taxpayers about \$60 million dollars.<sup>7</sup> Nevada has not carried out any executions since 2006, yet Nevadans continue to bear the death penalty's heavy financial burden. Abolishing the death penalty would allow key resources to be reinvested in other state budget priorities like education, housing, and social services that benefit communities.

In the past few years, views of Nevada voters have moved dramatically toward death penalty abolition. According to a January 2021 poll, 49 percent of Nevada voters support repealing the death penalty, compared to 46 percent who support its continued use. This represents a 20-percentage point shift toward repeal compared to responses from a poll administered four years earlier, in which 66 percent of respondents said they supported keeping capital punishment.<sup>8</sup> The death penalty has also fallen out of favor nationally; a 2019 Gallup poll found that a record 60 percent of Americans favored life imprisonment over the death

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<sup>3</sup> "Innocence," Death Penalty Information Center, <https://deathpenaltyinfo.org/policy-issues/innocence>.

<sup>4</sup> "It's Time for Nevada to Abolish the Death Penalty," ACLU of Nevada, March 10, 2021, <https://www.aclunv.org/en/news/its-time-nevada-abolish-death-penalty>.

<sup>5</sup> "Death Penalty," Equal Justice Initiative.

<sup>6</sup> Thomas E. Vilorio, "Time to kill death penalty in Nevada," Reno Gazette Journal, March 11, 2019, <https://www.rgj.com/story/opinion/voices/2019/03/11/time-kill-death-penalty-nevada-vilorio/3134834002/>.

<sup>7</sup> S. Alex Spelman, "It's time to abolish the multi-million-dollar death penalty and reinvest in Nevada," The Nevada Independent, July 7, 2020, <https://thenevadaindependent.com/article/its-time-to-abolish-the-multi-million-dollar-death-penalty-and-reinvest-in-nevada>.

<sup>8</sup> "POLL: Views of Nevada Voters Shift Dramatically Towards Death Penalty Abolition," Death Penalty Information Center, March 10, 2021, <https://deathpenaltyinfo.org/news/poll-views-of-nevada-voters-shift-dramatically-towards-abolition>.



penalty, the highest level of opposition since 1966.<sup>9</sup> In just the past three years, Virginia, New Hampshire, Colorado, and Washington State banned capital punishment. As of March 2021, 23 states and Washington, D.C. have abolished the death penalty, while an additional four states have a statewide moratorium on executions.

The death penalty is unjust, uncivilized, and inconsistent with the fallibility of our justice system. It produces arbitrary outcomes and perpetuates racial and ethnic disparities. NACDL urges you to stand with us, Nevada Attorneys for Criminal Justice,<sup>10</sup> Nevada Coalition Against the Death Penalty, and the growing number of organizations and concerned Nevadans by supporting AB 395.

Sincerely,

Monica L. Reid, Director of Advocacy  
National Association of Criminal Defense Lawyers

cc: Members of the Assembly Committee on the Judiciary

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<sup>9</sup> “Gallup Poll: Public Support for the Death Penalty Lowest in a Half-Century,” Death Penalty Information Center, November 24, 2020, <https://deathpenaltyinfo.org/news/gallup-poll-public-support-for-the-death-penalty-lowest-in-a-half-century>.

<sup>10</sup> “NVCADP – Letter to Repeal the Death Penalty,” Millennials in Motion Magazine, March 16, 2021, [https://mimmag.com/nvcadp-letter-to-repeal-the-death-penalty/?fbclid=IwAR2AHQucv8OJbdn7\\_dIIAB6LrFL4134ZpzCu53Ubb1jB9sWCYAVb\\_gXdYps](https://mimmag.com/nvcadp-letter-to-repeal-the-death-penalty/?fbclid=IwAR2AHQucv8OJbdn7_dIIAB6LrFL4134ZpzCu53Ubb1jB9sWCYAVb_gXdYps).