

THE DEFENDER

ACLU

Vermont

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FEBRUARY 2018

ACLU of Vermont Launches “Smart Justice Vermont” Campaign

This month, the ACLU of Vermont welcomed Bill Cobb, Deputy Director of the ACLU’s nationwide Campaign for Smart Justice to help launch Smart Justice Vermont: our statewide campaign to cut Vermont’s prison population **in half**.

We’re going to achieve this goal through bail and sentencing reform, by ending the war on drugs, and by advancing racial justice. We believe this campaign offers a very different vision for Vermont’s future than the Scott Administration’s plan to build a \$150 million, 925-bed private prison.

A key component of Smart Justice Vermont involves focusing on the role of prosecutors in the criminal justice system. Vermont’s elected prosecutors are called State’s Attorneys. These elected officials have enormous power over the lives of Vermonters entangled in the criminal justice system. They decide who gets charged and who is free to go. They choose whether to sentence someone to six months or six years or whether that person should instead receive pre-trial diversion for addiction treatment. They choose whether to prosecute police officers and government officials for misconduct.

In Vermont, 98% of criminal cases are resolved by plea deal. Harsh sentencing policies leave many defendants with little choice but to take the deal offered, so in the overwhelming majority of cases, State’s Attorneys, not judges, decide who goes to prison, and for how long.



Campaign for Smart Justice Deputy Director Bill Cobb speaks at ACLU of Vermont press conference.

State’s Attorneys don’t release data on case outcomes, making it harder to evaluate their crucial role in the criminal justice system. But the overall trend is clear: Vermont locks up three times the number of people it did in the 1980s and 50% more people than it did as recently as the late 1990s. If we are going to change that, our States Attorneys have a big role to play.

Vermont’s state’s attorneys are elected officials, and are ultimately accountable to the voters—and they will be on the ballot in 2018. Primaries will be held on August 14th and the general election is November 6th. The ACLU is urging members to learn about the candidates and vote.

To learn more about Smart Justice Vermont visit acluvt.org/SmartJusticeVT.



Slam poets Muslim Girls Making Change perform at the Smart Justice Vermont launch celebration in Burlington.



ACLU Membership Conference 2018

June 10-12, 2018 at the Marriott Marquis in Washington, DC.

Come meet your fellow ACLU members and activists and hear from ACLU experts, journalists and artists fighting for civil rights.

Learn about the issues that matter most to you, share stories and tactics with others passionate for driving change, and recharge and energize for our continued fight for civil liberties in Vermont and nationwide. More information to come!

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Tackling Racial Profiling at the Vermont Supreme Court

Thanks to police department data, we know that Black and Latino drivers in Vermont are stopped and searched at much higher rates than white drivers. This is true even though searches of white drivers are more likely to yield contraband.

The ACLU is fighting this practice in court. This year, the Vermont Supreme Court will hear the case of Greg Zullo, an African American man who was pulled over for having a small amount of snow covering the registration sticker on his license plate (something that was not illegal at the time of the stop).

The Vermont State Trooper, citing a smell of burnt marijuana, demanded to search the car.



When Mr. Zullo refused, the trooper had the car towed to the police barracks to have it searched there, and Mr. Zullo was forced to walk several miles in the snow without a coat and pay a fee to retrieve it. The search of the car revealed nothing illegal.

Traffic stops like the stop endured by Mr. Zullo are a prime example of how people of color, due to disproportionate scrutiny and racial profiling by police, are more likely to become entangled in the

criminal justice system, with consequences that could follow them and their families for a lifetime.

The ACLU will argue that officers should be held accountable for mistakes of law—i.e. pulling someone over for something that is not actually illegal—in order to make pretextual stops less likely.

We will also argue that in this case the State is unreasonably expanding powers of search and seizure, given that the officer only had suspicion of what was, at the time, a civil infraction (marijuana possession).

We hope that Mr. Zullo's case will force changes in law enforcement practices to ensure that motorists' civil rights are respected.

ACLU, VT Journalists Call for Public Records Reform

A coalition of journalists and open government advocates including the ACLU and the Vermont Press Association is working with state legislators to reform Vermont's public records act this legislative session.

The effort comes in response to growing concerns that Vermont state agencies too often deny valid requests for public records, undermining a key mechanism for government accountability and transparency.

The Center for Public Integrity recently gave Vermont an 'F' in access to public information. Problems

include a long and growing list of exemptions—over 260—agencies routinely invoke to justify withholding public records; long delays in production of records to requesters; inconsistent and exorbitant processing and copying fees; and routine, improper denials by Vermont agencies to legitimate records requests.

Oftentimes, the only recourse for someone whose request is denied is to file a lawsuit, and numerous courts have ruled against Vermont agencies for violating the state's public records law.

The ACLU is regularly involved in these cases. Re-

cent examples include a successful lawsuit on behalf of a journalist who was denied access to data about bullying and harassment in Vermont schools, our work in VTDigger's extended legal battle with the State over production and redaction of EB-5-related documents, and our attempts to obtain information on the use of automatic license plate readers from the Vermont State Police.

We'll continue working with the legislature on reforming Vermont's public records law to better ensure that government is accountable to the people.

Litigation Updates

Montagno v. City of Burlington: Settlement reached, Burlington pledges to introduce reforms

As 2017 drew to a close, ACLU and the City of Burlington settled a civil rights lawsuit filed on behalf of Joseph Montagno, a life-long Vermonter. Mr. Montagno was evicted from his apartment in 2016 after the City complained he was calling for police assistance “too frequently” in response to recurrent safety concerns at his apartment building.

The terms of the settlement include substantive changes to the city ordinances that led to the eviction, as well as a \$30,000 compensatory payment to Mr. Montagno. The ACLU has successfully challenged similar laws around the country, which disproportionately target victims of crime – particularly survivors of domestic violence, people of color, and individuals suffering from mental illness. Thanks to this case, vulnerable people will no longer lose their housing simply because they need police assistance.

Duffort v. Vermont Agency of Education: Victory! Agency of Education must release documents

In this public records case, we represented Lola Duffort, who while working at the Rutland Herald requested documents related to hazing and bullying in schools. The Agency denied the request, saying that even though they had collected the data Duffort sought, the fact that a report did not already exist meant they did not have to provide it.

Judge Helen Toor in Rutland civil court ruled that because the agency possessed the information in their database and could query it, extracting and compiling it did not amount to creation of a new record. The decision was a huge win for journalists and all Vermonters who want open and accountable government.

Croteau v. Burlington: Filed

ACLU of Vermont filed this class action complaint in October of 2017 on behalf of Brian Croteau, Larry Priest, and Richard Pursell and other homeless Burlington residents, contesting “evictions” that the City uses to displace homeless residents from camps established on public land, even though the residents have nowhere else to go. The City repeatedly threatened to arrest homeless residents sleeping on public land and seize and destroy their property, despite City officials acknowledging that local shelters are full.

The case is pending, but Burlington has already improved some of its policies, including new protocols for seized property.

Migrant Justice v. US Dept of Homeland Security: Filed

Since April 2016, several Migrant Justice leaders have been arrested by ICE and CBP. The locations and timing of the arrests, comments made by the officers, and other actions by the agencies involved led Migrant Justice to suspect that the arrests were retaliatory, improperly targeting members of Migrant Justice for their activism and exercise of free speech.

Migrant Justice submitted Freedom of Information Act requests to learn more about the arrests, but the government agencies involved failed to produce any documents. The ACLU of Vermont, joined by the National Immigration Law Center and the National Center for Law and Economic Justice, filed suit to compel the release of the documents and will continue to fight for the free speech rights of activists in Vermont.

ACLU WELCOMES
Barbara McAndrew



Barbara McAndrew joined the ACLU of Vermont in 2017 as Senior Development Director to lead our fundraising program.

She has over 30 years of experience with nonprofit organizations in New York and Vermont, most recently as Vice President of Institutional Advancement at the Institute for Sustainable Communities.

Barbara serves on the advisory council of Main Street Alliance of Vermont, as well as several community boards. She is a graduate of Colgate University and the Vermont Leadership Institute.

Please join us in welcoming Barbara on board!

ACLU of Vermont Turns 50



Executive Director James Lyall (left) presented the David W. Curtis Civil Liberties Award to ACLU of Vermont founding members Peter Langrock, Franklin Kellogg, and Betty Clark at the ACLU of Vermont’s Annual Meeting in October 2017.

The Award recognized the vision and courage of all of the ACLU of Vermont’s roughly 300 founding members, honoring the enduring accomplishments and countless victories made possible by their commitment to civil liberties at the Vermont affiliate’s founding in 1967.

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Interested to volunteer with the ACLU of Vermont?

As an ACLU of Vermont volunteer, you'll receive monthly updates about our needs, and choose the activities you are most excited to help with based on how much time you can give.

Tasks vary from month to month and you do not need to commit to regular hours.

To sign up, take our volunteer survey at www.acluvt.org/volunteer.

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2018 LEGISLATIVE PREVIEW

Vermont's legislature is back in session, and when it comes to civil rights there's a lot at stake this year.

Criminal Justice Reform. Vermont sends too many people to prison for too long—at a cost to taxpayers of more than \$140 million annually—and incarcerates Black men at a higher rate than any other state. Vermonters living with addiction and mental illness are locked up instead of receiving effective treatment. We are working on a number of pending bills that can make a big difference in cutting the prison population and addressing racial disparities, with more to come.

Open Government Reform. Transparency is key to safeguarding public trust in government, but too often, Vermont agencies reflexively deny legitimate records requests with no valid justification and few if any consequences. The ACLU is working in coalition to reform Vermont's public records law, ensuring that our government is more transparent and accountable to the public.

Stronger Privacy Protections. With new technologies come new threats to our privacy, and the ACLU is fighting to strengthen Vermonters' privacy protections—by prohibiting Vermont from assisting the federal government in collecting electronic data without a warrant and requiring private companies that collect personal data to better protect Vermonters' private information.

A Vermont That Works for Everyone. This year, we have tremendous opportunity to invest more in healthy families and communities. The ACLU is advocating for Vermont to raise the minimum wage, pass paid family leave, establish universal primary care, and prioritize investment in mental health care. And, we'll be urging the legislature to implement the recommendations of its racial justice panels, including a K-12 ethnic studies curriculum in public schools.

