

We the People

2018 ANNUAL REPORT

ACLU
Vermont

**ACLU leads calls for
DOC to stop sending
inmates to out-of-
state prisons**

**ACLU sues ICE and Vermont DMV
for targeting Vermont farmworkers
in retaliation for activism**

**Smart Justice
Vermont campaign
launches prosecutor
accountability
initiative**

**Joined by Secretary of State, ACLU
lawsuit seeking public access to
police bodycam footage goes
to Vermont Supreme Court**

**New England ACLU
affiliates sue to
uncover records of
regional ICE &
Border Patrol activity**

**Federal judge allows ACLU racial
profiling case against Bennington
PD to move forward**

**In response to ACLU demand, six
Vermont towns end unconstitutional
ban on asking for donations**

**In landmark ruling, Vermont Supreme
Court holds police can be liable for
discriminatory searches & seizures**

**ACLU testifies for legislation to safeguard
Vermonters' reproductive freedom from attack**

**ACLU files lawsuit
challenging Burlington**

**Following ACLU demand,
Governor Scott ends policy
of censoring constituents
on social media**

**ACLU helps turn back
attempts to exempt water
pollution data from public
records laws**

**“no trespassing” ordinance
that bars people from
public spaces**

We the people dare to create a more perfect union.

DEAR FRIENDS,



For all the uncertainty facing our state and the country at large, this much is clear: when it comes to civil liberties and civil rights, **you can count on the ACLU to hold the line and lead the way forward.** That's what we've been doing for 99 years, through some of this country's darkest moments, right up to the present.

When Donald Trump was elected, we pledged to "see him in court." Two years later, thanks to you, we've kept that promise—filing more than 200 lawsuits, mobilizing millions of supporters, and advancing ambitious state-level policy reforms to counter the abuses of this administration's agenda, including right here in Vermont.



In court, we stopped family separation and fought to uphold asylum protections for women and children fleeing persecution, among scores of other victories. At the ballot box, we mobilized to restore voting rights and won sweeping criminal justice reforms across the country. **Thank you for standing with us.**

We continue to build on the momentum of resistance to remedy the underlying dysfunctions in our democracy, of which this administration is merely a symptom. Looking ahead, the threats and challenges we face are clear. Extreme inequality, systemic racism, and a corrupted political system predated Donald Trump's tenure, and they will remain when he is gone.

In Vermont, we have both the **opportunity and the responsibility** to counter the profound injustices we're seeing at the national level, as well as here at home. Together we can advance civil liberties in ways that will reverberate well beyond our state.

Thank you for all that you do to support the ACLU of Vermont.

A handwritten signature in black ink, appearing to read "Julie Kalish".

Julie Kalish
President

A handwritten signature in black ink, appearing to read "James Duff Lyall".

James Duff Lyall
Executive Director

Advancing Racial Justice



“I wanted laws to change. I didn’t want this to happen to anybody else – especially people of color.”

ACLU of Vermont client **Gregory Zullo**

A Historic Victory for Racial Justice and Police Accountability

Zullo v. State

Possibly the most sweeping and significant ruling on police accountability and racial justice in Vermont history was handed down on January 4, 2019. The Vermont Supreme Court issued a landmark decision in favor of ACLU of Vermont client Gregory Zullo, sending a clear message: **no one is above the law, including police who engage in racial profiling.**

Mr. Zullo, a young Black man, was pulled over in Wallingford in March 2014 by then-Vermont State Trooper Lewis Hatch. The justification for the stop was an alleged small amount of snow covering the registration sticker on Mr. Zullo's license plate, which was not a traffic violation at the time.

The state trooper, citing a faint scent of burnt marijuana, ordered Mr. Zullo out of the vehicle and demanded to search the car. When Mr. Zullo refused, the officer had the car towed to the police barracks and searched it. Mr. Zullo was forced to walk several miles in the snow and pay a \$150 fee to retrieve his vehicle from the towing company. The search of the car revealed nothing to indicate Mr. Zullo had committed a crime.

The ACLU of Vermont argued to the Vermont Supreme Court that the stop violated Article 11 of the Vermont Constitution and was not excused by Trooper Hatch's misunderstanding of the law; that the seizure of Mr. Zullo's vehicle was impermissible because the faint odor of burnt marijuana, standing alone, cannot establish probable cause; and that the state was not immune from liability. **In a unanimous decision, the Vermont Supreme Court agreed with ACLU of Vermont on all counts.**

Now, thanks to Mr. Zullo and his five-year legal battle, if police make unlawful stops and searches—including those motivated by racial bias—they can, and will, be held accountable.

Defending Immigrants' Rights



Staff Attorney Lia Ernst speaks at rally outside federal courthouse in Burlington, announcing filing of lawsuit

“DMV and other local officials have no legal authority to engage in immigration enforcement or to discriminate against Vermont residents. Clearly that message still hasn’t gotten through, and that’s why DMV is named in this lawsuit.”

ACLU of Vermont Staff Attorney **Lia Ernst**

Standing Up For Vermont Farmworkers

Migrant Justice v. Nielsen

The ACLU's ceaseless efforts to defend the rights of immigrants has never been more important, including here in Vermont. In November 2018, ACLU of Vermont and partner organizations filed a lawsuit in Vermont federal district court on behalf of Migrant Justice and several of its members, asserting that ICE and Vermont DMV were participating in a targeted campaign of arresting, and detaining Migrant Justice activists—in retaliation for their advocacy and in violation of their constitutional rights.

Migrant Justice works to build the voice, capacity, and power of the Vermont farmworker community, including through its successful Milk with Dignity campaign. **In direct retaliation for those constitutionally protected activities, ICE and Vermont DMV systematically targeted their members through surveillance, infiltration, and arrest**— part of ICE's politically motivated campaign to arrest immigrants' rights activists around the country.

And, they had help from Vermont's local officials. Documents obtained through public records requests showed that Vermont DMV officials sent so-called "South of the Border" names and activists' personal information directly to ICE. DMV officials repeatedly referred to immigrants in racist terms and scheduled appointments to facilitate arrests. All despite multiple Vermont statutes designed to provide licenses for undocumented Vermonters and prevent local officials from getting entangled in the deportation business.

Plaintiffs in the lawsuit are seeking a court order to protect Migrant Justice and its members from unconstitutional harassment and attacks by government. Meanwhile, the ACLU will continue to call on state leaders to enhance protections for farmworkers and other immigrant populations in Vermont that are so clearly needed.

These are exactly the kinds of governmental abuses—targeted harassment, detention, and attempted deportation of activists and resisters—that inspired the ACLU's founding nearly 100 years ago, showing once again that our work to defend essential rights and liberties never ends.

Vermont students
presented with
ACLU of Vermont's
David W. Curtis
Civil Liberties
Award for leading
the nation in
raising Black
Lives Matter flags
at their schools



Smart Justice Vermont



Graduates and
facilitators of
the Smart Justice
Advocates Training
for Vermonters
directly impacted
by incarceration

Year One

It's been one year since we launched Smart Justice Vermont, with the goal of reducing Vermont's oversized prison system by at least 50%, ending our dependence on out-of-state prisons, and eliminating racial disparities that are among the worst in the country.

Over the past year, our organizing team led outreach efforts with community members, allied organizations, and elected officials statewide, sharing information about Vermont's criminal justice system, and establishing a strong foundation of support. One thing was very clear: **Vermonters overwhelmingly and unequivocally want a smarter, fairer criminal legal system** that respects the dignity of people in prison and emphasizes alternatives to incarceration over punishment.

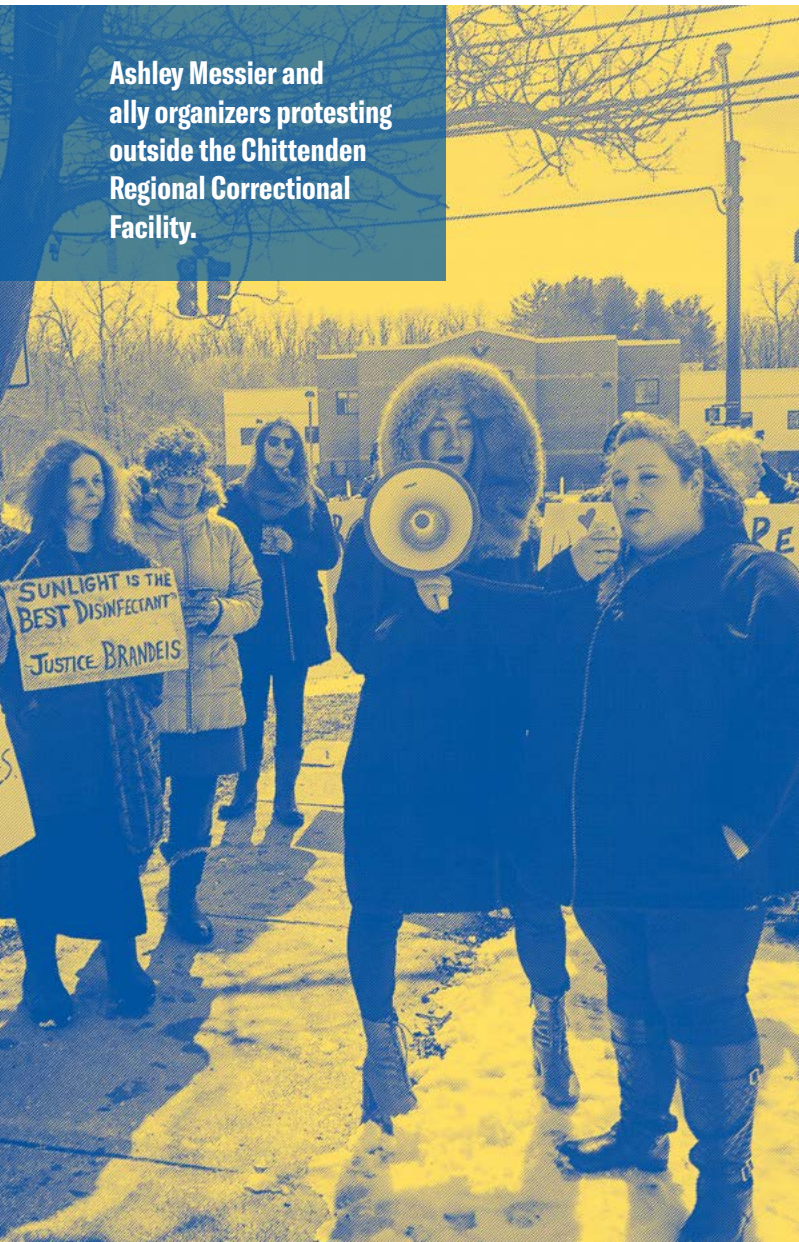
During election season, we focused attention on the crucial role of Vermont's elected prosecutors in our criminal legal system. We hosted candidate forums and published a voter guide highlighting the candidates' views on a range of issues impacting our communities—the opioid epidemic, racial profiling, and more. State's Attorneys wield tremendous power and yet their role in setting criminal justice policy is too often ignored. As part of our campaign to repair the damage of our criminal justice system, we are working to make prosecutors more transparent about their positions and accountable to Vermonters.

Looking ahead, we're advancing legislation to bring greater transparency to Vermont's criminal justice system, and pushing for broad sentence reductions and the closure of Vermont's notorious women's prison in South Burlington, among other reforms. We're also lifting up the voices of Vermonters who strongly oppose a short-sighted proposal to build a new mega-prison in Vermont.

We have a very different vision for Vermont—one that doesn't involve private prison companies or out-of-state prisons but instead emphasizes rehabilitation, treatment, and restorative justice to achieve safer, healthier communities.



Ashley Messier and ally organizers protesting outside the Chittenden Regional Correctional Facility.



Ashley Messier and Nico Amador representing ACLU at a Women's March Vermont event



“People invested in me and saw me for who I really am – a survivor, a mother, a human being.”

Smart Justice Campaign Consultant **Ashley Messier**

Ashley Messier

Investing in People, Not Prisons

Smart Justice Vermont consultant Ashley Messier has brought invaluable expertise and insight to the campaign, drawing on her experiences as both a victim of crime and a formerly incarcerated Vermonter.

I did not walk into that courtroom a hardened criminal, and I had never been to jail. My real crime was addiction. Like many others, I was a heroin addict and committed low-level crimes to support my daily use. My addiction, as that of many women, spurred from serious trauma, including sexual and domestic violence.

I have served my sentence and am a responsible, hardworking member of my community. I am an active mom and partner. After returning to college, I volunteered for a transitional housing program, and became an advocate for criminal justice reform.

But regardless of my achievements, I am often seen first as a convicted felon. I am flagged as a “high-risk” employee, have had difficulty finding minimum-wage employment, and am barred from chaperoning my children’s school field trips.

Things could have gone differently. A diversion option, like treatment court, or alternative supervision to allow me to address my addiction, would have minimized the collateral damage caused by incarceration that I still experience today.

The community is not “safer” today because I went to jail, as prosecutors so often claim. I’m successful today because of support, treatment, and opportunity—none of which I found in jail.

People invested in me and saw me for who I really am—a survivor, a mother, a human being. That’s what it took for me to get to where I am today—an advocate for alternatives to incarceration who consults with the ACLU to advance **a vision that invests in people and families, not prisons.**

Fighting the Criminalization of Poverty

Our society has devised countless measures to make life more difficult for those who can least afford it—including criminalizing the simple act of asking for help. In August 2018, we sent letters to six Vermont towns demanding they drop unconstitutional ordinances that outlawed panhandling. **Two months later, in response to ACLU of Vermont’s demand, all six towns had complied.**

The City of Burlington, however, continues in other ways to criminalize people who are homeless and live in poverty. For example, the ACLU of Vermont’s is currently pursuing a lawsuit challenging the city’s policy and practice of seizing and destroying homeless residents’ property without notice or due process.

“Anti-panhandling ordinances are unnecessary, unconstitutional, and just plain bad policy. We’re calling on Vermont’s communities to pursue constitutional and productive measures to reduce homelessness and poverty.”

**ACLU of Vermont Staff Attorney
Jay Diaz**

Plaintiff Brian Croteau Sr., a resident of Burlington, was homeless for three years in Burlington. Initially Mr. Croteau had been sleeping in his car, but in February 2017 the city towed the vehicle and Mr. Croteau could not afford to pay the towing fee to retrieve it, causing him to sleep outside.

City officials have repeatedly evicted Mr. Croteau from his encampments and confiscated his personal belongings, including his shelter and some of the only other possessions he owns. Our lawsuit argues **the city’s seizure and destruction of Mr. Croteau’s personal property is not only cruel—it’s unconstitutional.**

In another case, we represent local resident Jason Ploof, who was jailed for being in City Hall Park after receiving two “no trespass” notices earlier that month for open container violations. We’re defending Mr. Ploof’s right to be present in public space and we will continue to oppose Burlington’s counter-productive and unconstitutional mistreatment of low-income and homeless residents.



Protecting and Advancing Civil Liberties in the Statehouse

With a full-time presence in the state house, the ACLU plays a key role in defending and advancing Vermonters' civil rights. Each session we track more than 100 bills and testify on dozens of issues affecting civil liberties. **We are grateful to our members who respond to our calls to contact representatives at critical moments—your efforts make a difference and we thank you.**

Some highlights of the 2018 session included:

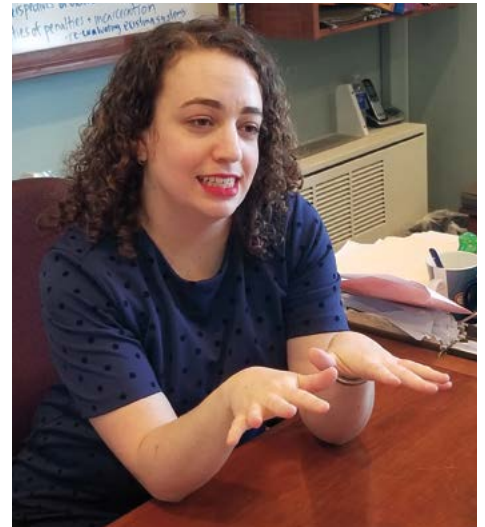
- ✓ *bill to combat sexual harassment in the workplace;*
- ✓ *commission to overhaul Vermont's sentencing laws;*
- ✓ *rejection (again) of roadside saliva testing;*
- ✓ *bill requiring gender-neutral restrooms.*

We supported legislation to protect an open internet and strike back at the Trump FCC's rollback of net neutrality rules. And, we and our allies won the creation of a new state government body to address systemic racism statewide.

During the 2019 Legislative Session, the ACLU of Vermont is supporting efforts to safeguard reproductive freedom, create ethnic studies standards in Vermont schools, reduce collateral consequence of criminal convictions, and advance legislation to improve the transparency of Vermont's criminal legal system.

Yet for all we have accomplished, Vermont must do more to rise to the occasion at this moment in our history. We must reject attacks on our teachers and schools and invest in families and communities; broaden privacy protections for the digital age and strengthen limits on police surveillance; and reduce Vermont's damaging reliance on incarceration.

To do that, the ACLU is engaging more Vermonters in the political process, and we look forward to more legislative victories with the support of our members and the power of the people on our side.



“Roe and the fundamental right to an abortion are in grave danger. Our efforts to enshrine reproductive freedom in statute and in Vermont’s constitution are an affirmation of the values and liberties Vermonters have cherished for generations.”

ACLU of Vermont
Policy Director
Chloé White

WAYS TO GIVE

Your support of the ACLU of Vermont makes it possible to advance equality and justice for all. Together we can demand and win changes that extend well beyond Vermont.

ONLINE

Donate online at acluvt.org

BY MAIL

ACLU Foundation of Vermont
PO Box 277
Montpelier, VT 05601

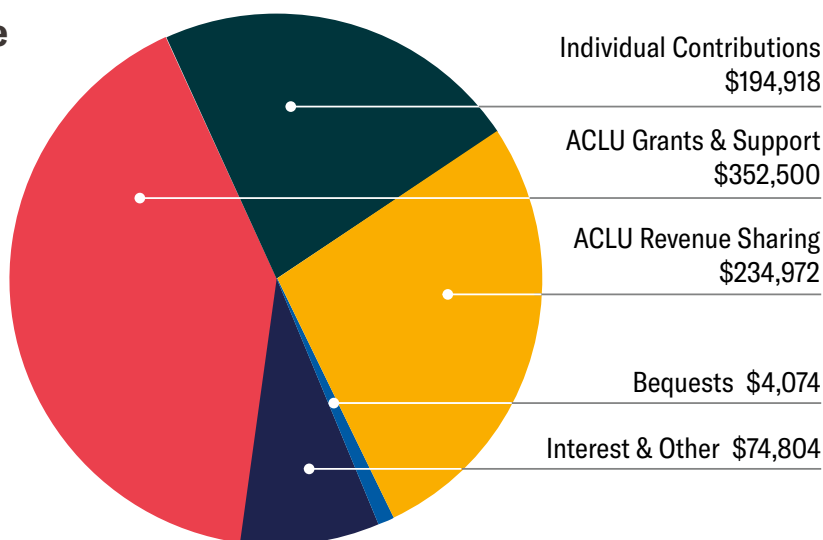
LEAVE A LEGACY

Include the ACLU in your will now, and we'll receive an immediate cash match. Contact legacy@aclu.org for more information.

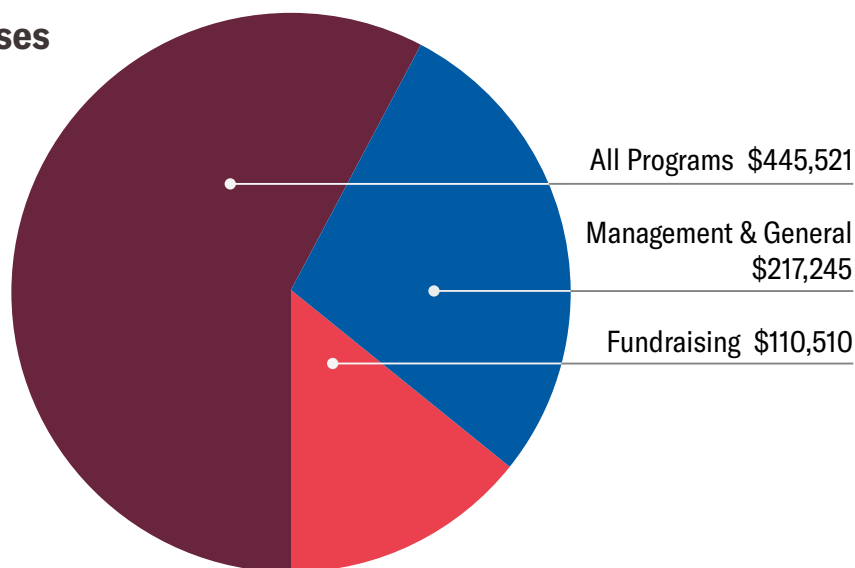
For more information on ways to support the ACLU of Vermont, please contact Barbara McAndrew, Senior Director of Development, at bmcandrew@acluvt.org.

Financial Summary*

Revenue



Expenses



* Combined ACLU-VT and ACLU Foundation of VT financials shown are based on FY18 audited financial statements prepared by independent auditors. Our fiscal year is April 1 to March 31.

We the people dare to create a more perfect union.

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Nico Amador, community organizer
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Thank you to our donors, members, supporters, and volunteers for all you do to help defend and advance civil liberties—and to all those who dare to create a more perfect union.

Follow us on social media!

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Cover photo of Black Lives Matter Flag taken by: Jeb Wallace-Brodeur, Times Argus

**“WE HAVE THE OLDEST
WRITTEN CONSTITUTION
STILL IN FORCE IN THE
WORLD, AND IT STARTS
OUT WITH THREE WORDS,
‘WE THE PEOPLE.’”**

Ruth Bader Ginsburg