



ACLU client Andrew Cappello and his family of Orleans County, Vermont

SO MANY OF us who call Vermont home are justifiably proud of this state’s democratic traditions, including the ability to participate directly and meaningfully in the decisions that impact our communities. These are the values that help make our government accountable to “We the People”—values that remain under sustained attack across the country.

Unfortunately, there are many disturbing examples of ways in which Vermont has not lived up to those democratic ideals. In recent years, we have observed a troubling pattern of local officials abusing their authority to exclude people from public life—without due process and in violation of their constitutional rights. We have also seen state officials persist in concealing information from the public, in direct violation of our public records laws.

Thanks to our supporters and an expanded legal program, we are working to defend the values underpinning our participatory democracy, and to vindicate the rights of Vermonters who have been wronged.

In January, we filed a lawsuit on behalf of Andrew Cappello (pictured above), whom City of Newport officials served with a “notice against trespass” in August 2021, barring him from city property. The yearlong “no trespass” order was issued without any due process and at the request of a city official with an apparent grudge against Mr. Cappello.

A week earlier, we filed an amicus brief calling for the dismissal of criminal charges against Montpelier resident

Stephen Whitaker, who was forcibly removed from a city council meeting and criminally charged with disorderly conduct and trespassing after he exceeded the two minutes of time allotted for public comment. Washington County State’s Attorney Michelle Donnelly dropped the charges in February, after concluding that “Mr. Whitaker did not commit a crime.”

The same month, we appeared before the Vermont Supreme Court in our challenge to the State’s unlawful withholding of public records from the EB-5 program, which resulted in the largest financial fraud in state history. **You can learn more about each of these cases at acluvt.org/cases.**

When local officials abuse their power to exclude people from public spaces, or to conceal information from the public, it undermines the values of civic participation and inclusion on which our democracy relies.

These cases are the latest examples of the ACLU’s ongoing work to hold our government accountable and defend participatory democracy in our state and our country.

Thank you for making this work possible.



James Duff Lyall
Executive Director



YEARS OF

ACLU



SMART JUSTICE Vermont

As part of a nationwide movement to address the crisis of mass incarceration and systemic racism in our criminal legal system, the ACLU's Smart Justice Vermont Campaign advocates for smarter, fairer, and more humane policy solutions—and it's working.

THIS YEAR, WE and our supporters are marking five years of Smart Justice Vermont, a statewide campaign launched in January 2018 with the goals of reducing Vermont's prison population by at least half from its peak and combatting racial disparities in the criminal legal system.

In partnership with a wide range of stakeholders, the campaign has already helped to drive a forty percent reduction in the state prison population and helped win historic police reforms and advance groundbreaking racial justice initiatives—with more work still underway (see p. 3).

In the years prior to Smart Justice, through decades of "tough on crime" policies, Vermont's prison population had swelled from under 500 people to more than 2,200. And while Vermont's social safety net has long been chronically underfunded, annual spending on our criminal legal system—including police and law enforcement—has increased by over 220%, to more than half a billion dollars per year.

Together, we've responded with evidence-based, data-informed policy reforms and won transformative changes in the lives of real people, families, and communities. Thank you for helping Vermont turn a corner and make these reforms a reality.

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2018

Smart Justice Vermont highlighted for voters the critical yet often unseen role of Vermont's elected state's attorneys, while encouraging smarter, fairer prosecutorial practices at the local level.

2019

The ACLU published its policy recommendations in a "Blueprint for Smart Justice," and prevailed at the Vermont Supreme Court in *Zullo v. State*, a landmark victory for racial justice and police accountability.

2020

Vermont adopted stricter limits on police use-of-force and discriminatory face recognition technology. The state legislature committed to building a "smarter criminal justice system" through Justice Reinvestment (JRI), an initiative that has led to hundreds fewer people being sent to prison.

2021

The Vermont Supreme Court again sided with the ACLU, ensuring that Vermont prosecutors can't use the U.S. Border Patrol to eviscerate the protections of Vermont's state constitution.

2022

After four years of our advocacy with partners, Vermont established the Division of Racial Justice Statistics to identify and address racial disparities in our criminal legal system.

Still, despite high levels of public support, Vermont's progress is in jeopardy. At a time when our communities are calling for resources to address housing insecurity, mental health, and a worsening opioid epidemic, legislators are considering new criminal penalties and whether to expand the state prison system through costly new prison construction.

We are faced with a choice: do we address the root causes of the challenges facing our communities by investing in those communities, or do we pursue the same failed strategies of the past? The

people of Vermont have been clear that they want investments in people, not prisons. Please help us to ensure your elected representatives are getting that message and acting on it.

IN THE STATE HOUSE

WITH YOUR SUPPORT, we are in the Vermont legislature every day, working to advance the civil rights and liberties of everyone who calls this state home. Here are some of our priorities for the 2023-24 biennium:

SMART JUSTICE

We are supporting legislators to invest in effective, community-based alternatives to incarceration and reject plans for a multimillion-dollar prison expansion. We continue to champion bail and sentencing reform, and desperately needed investments in housing, mental health, and drug treatment to make our communities safer and more stable—and to keep Vermonters from being incarcerated in the first place.



Indi Schoenherr (Policy Advocate), Falko Schilling (Advocacy Director), and Jess Venable-Novak (Advocacy and Outreach Manager) at the start of the new biennium

COMMUNITY SAFETY AND POLICING

To make police more accountable to the communities they serve, we are advancing proposals to support community oversight of law enforcement, limit racially discriminatory traffic safety stops, curb deceptive police interrogation techniques that lead to false confessions, and end qualified immunity, among other reforms.

BODILY AUTONOMY

Following the historic passage of the Reproductive Liberty Amendment (Prop 5), we are working to secure greater protections for people seeking reproductive and gender-affirming care, and their medical providers—including “shield laws” to safeguard against restrictive and punitive legislation in other states.

Shield laws would protect patients’ and providers’ private information, limit cooperation with out-of-state investigations intended to penalize legal medical services, and disincentivize out-of-state lawsuits related to reproductive or gender affirming care.

EDUCATION

The U.S. Supreme Court’s decision in *Carson v. Makin* jeopardizes the democratic traditions that have long defined Vermont’s public education system (see page 4). But it also offers an opportunity to create a new system that finally serves all students equally. We are working with policymakers to ensure that public education in Vermont is well-funded, equitable, and grounded in democratic values.




ACLU staff celebrating passage of the Reproductive Liberty Amendment

ADVOCATING FOR EQUITABLE AND INCLUSIVE EDUCATION

VERMONT HAS A longstanding commitment to providing quality public education to all, regardless of geography or status. Last year, however, the U.S. Supreme Court jeopardized those values, and put our state—and our students—in a difficult position.

Given Vermont's many small towns and rural areas, our education system has long relied on private schools to educate students living in places not served by public institutions, or "school choice towns." For years, the State has paid public tuition to those independent schools, while trying to maintain appropriate safeguards.

In *Carson v. Makin* (2022), the Supreme Court ruled that where states provide funding to private schools, they can no longer exclude religious schools from receiving public dollars.



All students
deserve to
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Carson marks a major shift—specifically, the First Amendment's balancing of the right to religious expression on the one hand, and the right to be free from government establishment of religion on the other.

Notwithstanding the challenges created by the *Carson* decision, Vermont can and must do more to support our public education system so that all students receive a quality education regardless of who they are or where they live.

Defending Students' Rights Nationwide

Our schools should be places to find knowledge and belonging. But dozens of states have advanced classroom censorship bills to erase our history and culture by restricting discussions about race, gender, and sexual orientation—while political attacks against LGBTQ+ youth have proliferated in state legislatures.

The nationwide ACLU is fighting back. Lawsuits challenging school censorship are pending in several states—including Florida, where we sued to block the discriminatory "Stop W.O.K.E. Act," which prevents educators and students from expressing viewpoints on racism and sexism



disfavored by state lawmakers. In other states, we're in court to defend trans students' right to use facilities consistent with their gender identity and participate freely in school sports.

Here in Vermont, as part of the Education Justice Coalition of Vermont, we are supporting initiatives to implement a more inclusive school curriculum, end racist and identity-based harassment and bullying, and remove armed cops from Vermont schools.

Your support advances local and nationwide efforts to make schools safe, supportive, and constructive places for all students. Thank you.

LITIGATION UPDATE

POLICE ACCOUNTABILITY

Among numerous other legal actions undertaken earlier this year (see page 1), we filed a lawsuit in January that underscores yet again why police should not be left to police themselves.

Our client John Chinnici was unlawfully arrested, interrogated, and searched by Bennington police after they repeatedly pressured multiple witnesses and suspects to name him as an accomplice in a January 2016 armed robbery—even though Mr. Chinnici did not match witness descriptions and no evidence connected him to the crime.

Our client was prosecuted based on evidence arising from Bennington PD's unlawful actions. While his resulting conviction was ultimately thrown out, he now asserts that police officials and the Town of Bennington violated his federal and state constitutional rights.

Mr. Chinnici's case is emblematic of well-documented problems with Bennington's police department, and it shows how much further Vermont must go to establish meaningful police oversight and a culture of accountability in law enforcement.



Top:
ACLU client
John Chinnici



Bottom:
Staff Attorneys
Harrison Stark
and Hillary Rich;
Legal Director
Lia Ernst

For more litigation updates, visit our website at acluvt.org/cases



EMILY POTTS

Vermont Law and Graduate School

Free Speech Dispute Goes to Appeals Court

Earlier this year, we filed a brief with the U.S. Court of Appeals for the Second Circuit, in a case that will determine whether Vermont Law and Graduate School (VLGS) can be compelled to display murals it commissioned in the 1990s and has since deemed unsuitable for view.

The murals by artist Sam Kerson depict enslaved people escaping via the Underground Railroad to Vermont. In the decades since Kerson's artwork was completed, many in the law school's community have objected to its portrayal of Black Americans.

We are arguing that, while Kerson had a First Amendment right to create his art, VLGS has a First Amendment right not to be compelled to display expressive content inconsistent with its mission and values.

FORGING DISSENT

IN SEPTEMBER 2020, Burlington-based jewelry artist Jennifer Kahn wanted to commemorate the late Supreme Court Justice Ruth Bader Ginsburg's legacy as a defender of civil rights and gender equality. The result was the Dissent collection, a line of metal earrings and pendants featuring the likeness of Ginsburg's famed dissent collar.

The day after Ginsburg's death, Kahn wrote: "I create tiny armor to shield myself, to shield others, to imagine us strong and mighty and united. Hang in there, world."

The ACLU of Vermont is incredibly grateful for Kahn's artistry and generosity, which help make our work possible.



Jennifer Kahn began selling Dissent pieces in 2020 to raise funds for the ACLU. By the start of 2023, she had donated more than \$10,000.

THANK YOU, FALL INTERNS

We are grateful to Ben Gray and Will Fusaro, our amazing fall interns, for all their many contributions to our legal and advocacy programs!



Please join us and make your gift today.

Together, we can create a just and equitable Vermont for generations to come. **You may use the enclosed envelope or mail your gift to:**

ACLU Foundation of Vermont
PO Box 277
Montpelier, VT 05601

Or, make your gift online at acluvt.org/donate

To receive information on making a gift of stock, a tribute gift, or leaving a legacy in your will, visit acluvt.org/give or call (802) 223-6304.

Follow us on social media @ACLUVermont



COMMUNITY VOICES

"I completely agree that community care and supporting people who are struggling is what makes our city safer. Thank you for so passionately spreading that message all over Vermont! I feel safer knowing people like you are advocating for taking care of our communities."

ANONYMOUS, BURLINGTON, VT

"I appreciate your work, both nationally and locally, and intend to continue as a supporter. You make a huge difference and bring hope to many!"

MARGA, SOUTH BURLINGTON, VT

"It's good to see the work you are doing to the benefit of all Vermonters. We're happy to do the small bit that we are able to."

JOE, HINESBURG, VT

WELCOME, NEW BOARD MEMBERS

We are thrilled to welcome Megan Amundsen and Nadia Pabst of Manchester Center and Adrienne Johnson Ross of Shelburne to the ACLU of Vermont Board of Directors. Thank you for your service!



Megan Amundsen



Nadia Pabst



Adrienne Johnson Ross



We are excited to build our volunteer team in 2023.

Get Started at acluvt.org/volunteer

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Learn how at acluvt.org/act

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DEFENDING CIVIL LIBERTIES TAKES ALL OF US



BOBBI LOCICERO

Thanks to your sustained engagement and support, we started 2023 in high gear. Building on some powerful momentum, our team is continuing the fight to protect our most fundamental freedoms—like the right to participate in our democracy, live in safe and equitable communities, make our own reproductive decisions, and much more. Together we can create a Vermont where “We the People” means all of us.

We’re proud to be doing this work with you for the long haul. **Thank you for being an essential member of our ACLU community!**

www.acluvt.org

Follow us on social media @ACLUVermont

