

THE DEFENDER

ACLU

Vermont

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AUGUST 2018

From the Director

As the 2018 midterm elections approach, we find ourselves at a critical and possibly defining moment for Vermont and the country as a whole.

In June, the U.S. Supreme Court upheld the Trump administration's shameful Muslim Ban—a decision that instantly joins the ranks of the infamous *Korematsu* and *Dred Scott* decisions as galling examples of the Court betraying our most basic and fundamental principles.

We noted the irony of the Court choosing that occasion to overrule *Korematsu*, finally repudiating the forced internment of Japanese Americans during World War II. It is doubly ironic—and appalling—that it did so as the Trump administration was working to establish a *new* system of internment camps for the indefinite detention of asylum seekers and their families.

The next day, Justice Anthony Kennedy announced his retirement, leaving a Supreme Court vacancy at a dangerous and highly politicized moment, with profound consequences for our civil rights for decades to come.

The head-spinning events of that week alone reminded us that while the courts can be essential institutions for safeguarding civil liberties, we cannot rely on them alone. If we are going to prevent the erosion of our hard-won rights and move this country forward, we must strengthen our democracy and its institutions—and that work must start at the state and local levels.

Our state legislature just concluded the first biennium of the Trump era, and while there are many examples of leadership—including legislation to restore net neutrality, address system-

ic racism, end sexual assault in the workplace, and reduce our prison population—the fact remains we must do far more to meet the challenges of this historic moment.

Here in Vermont, we have both the opportunity and the responsibility to articulate a better vision and a bolder agenda to counter the profound injustices we're seeing at the national level. To do that, it is imperative that we engage more people in our political process—more students, more activists, more voters—to demand and win changes here in Vermont that can reverberate outside the state.

We call on our members, allies, and supporters to stand with the ACLU in the difficult but crucial task of building and sustaining movements for social change in Vermont and across the country. Working together, we can advance an alternative, inclusive, and *positive* agenda, we can hold our government accountable, and we can win.

-James Duff Lyall, Executive Director



Families Belong Together Rally, Burlington, VT



Noble Hall, 2018 Annual Meeting site

ANNUAL MEETING

Come join other concerned Vermonters who support the work of the ACLU at our annual meeting.

When: Sept. 22
1:30-4:30 pm

Where: Noble Hall,
39 College St,
Vermont
College of
Fine Arts,
Montpelier

Cost: Free

For directions and a preview of what's on the agenda, see the annual meeting and election addendum. You'll also find nominee statements and the ballot for the board election there — or read the statements and vote online at www.acluvt.org/election2018

We hope to see you on the 22nd!

ACLU-VERMONT

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Litigation Updates

Defending Immigrants' Rights

In May, we initiated a FOIA lawsuit to uncover records of ICE and Border Patrol operations across all of northern New England. The case was filed in response to a series of enforcement actions in the region—including vehicle checkpoints, roving patrol stops, bus raids, and targeted arrests of local activists. We look forward to sharing these records with the public and will continue holding these agencies accountable.

At the national level, the ACLU won a federal court order to halt family separation and reunite children with their parents, but the fight is far from over. Millions across the country continue protesting the cruel separation of families along our southern border—a policy the American Association of Pediatrics has called “government-sanctioned child abuse.”

Smart Justice

In May, the Vermont Supreme Court heard oral arguments in the case of ACLU client Gregory Zullo, who is challenging the unlawful stop and search of his car by Vermont State Police. Mr. Zullo, an African-American Rutland native, was stopped in 2014 on the basis that snow was allegedly covering the registration sticker on his license plate, which was not a traffic violation at the time.

Staff attorney Lia Ernst presented the ACLU's case, which focused on two arguments — first, that the Vermont Constitution does not allow officers to rely on a mistaken interpretation of law to justify a vehicle stop;

and second, that vehicle searches and seizures are only permissible if police have suspicion of a criminal act (which they did not in this case).

Several other Vermont racial justice organizations joined an *amicus* brief submitted by the National Association of Criminal Defense Lawyers in support of Mr. Zullo. Citing widespread racial disparities reflected in Vermont police stop data, they urged the Court to limit pretextual stops and searches, which disproportionately target people of color. Vermont's Defender General also filed a supporting brief. We are awaiting a final decision.

Defending the Rights of the Homeless

Our class action lawsuit challenging Burlington's evictions of homeless encampments is moving forward. The case was brought on behalf of three homeless residents, including plaintiff Brian Croteau, a 30-year resident of Burlington, who has been homeless since August 2016.

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. Since that time, he has slept outside—first at a bus stop, and then in a tent in the woods.

Our lawsuit argues the city's eviction practices and seizure of personal property are unconstitutional. After settlement discussions stalled, we are preparing to return to court.

[Additional case updates are available on our website.](#)



ACLU client Gregory Zullo outside the Vermont Supreme Court

The Power of Prosecutors

Our [Smart Justice Vermont](#) campaign is gaining momentum and focusing public attention on the crucial role of Vermont's elected prosecutors in our criminal justice system. State's attorneys wield tremendous power and so it's important that they be accountable to voters and transparent about their positions, especially in an election year.

That's why we surveyed the 20 candidates running for state's attorney, inviting them to share their views on a range of issues impacting Vermont communities—the opiate epidemic, racial profiling, and police accountability, among others.

We published the results in our [2018 Voter Guide](#), now available on our website. For the first time, Vermont's voters have the tools to evaluate these candidates before going to the polls—and to hold them accountable afterwards.

Unfortunately, while some candidates did respond, not a single incumbent was willing to answer the full survey in their own words for the benefit of their constituents.

Next, we co-hosted a candidate forum at Vermont Law School, offering the candidates another way to state their views on the record to the voters. Again, several candidates were unwilling to participate.



ACLU organizer Nico Amador presents on Smart Jus-

Undeterred, we and our campaign partners are still working to spread the word—at farmers' markets, in paid ads, through phone banking events, and more—to ensure that voters know how important this election is for reducing our prison population, and how much their vote, and their voice, matters.

Before you vote this year, please [visit our website](#) to learn how the candidates in your county responded to the ACLU's survey. Even if your candidate is running uncontested, if you're not satisfied by their response we invite you to engage with them directly and learn where they stand on the issues that matter to you.

Remember, prosecutors make life-changing decisions in your name every day. It's up to you to know who they are and to hold them accountable—the same as with any other public official.

ACLU Defends Free Speech Online

The ACLU of Vermont declared victory in a free speech dispute with Governor Phil Scott after his office agreed to stop blocking social media users who expressed criticism of the governor on his official Facebook page.

This message is to inform you that you have been unblocked from Governor Phil Scott's Facebook page. We are currently under the process of revising our social media policy to foster healthy constituent engagement.
Sincerely,
Governor's Information and Referral Office



Notification from Gov. Scott's official Facebook page

The ACLU had demanded that Governor Scott change his social media policies after we were contacted by several Vermonters whose posts were deleted, apparently because they criticized the governor for signing gun control

legislation earlier this year. Last year, Governor Scott blocked posts by members of Invisible Vermont who were also critical of his administration.

We [objected](#) that Governor Scott's practice of deleting criticism is a form of viewpoint-based censorship and that the governor's policy of blocking some constituents from making any future posts was an unlawful "prior restraint" on speech.

The ACLU has sued officials in other states—including governors in Maine and Maryland—after they blocked constituents on their official social media pages. In May, a federal court ruled that President Trump violated the First Amendment by blocking Twitter users based on the content of their speech. That court determined that the "@realDonaldTrump" account is a designated public forum because Trump, a public official, created and uses it as an "interactive space."

ACLU welcomes
Stephanie Hunt



We'd like to welcome Stephanie Hunt to the ACLU of Vermont as our new development associate. In this position, Stephanie helps to develop and maintain relationships with supporters who make our work possible.

Stephanie has a background in marketing and over 10 years of experience in non-profit fundraising and administration both in Colorado and Vermont. She received her B.S. in Psychology from the University of Vermont. She is excited to apply her broad base of skills to help us strengthen the ACLU's work in Vermont.

How You Can Help

[DO-](#)



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ACLU Legacy
Challenge

NEW! Join the ACLU
Legacy Challenge

It's a great time to include the ACLU in your will—you can trigger an immediate matching cash donation from The Crankstart Foundation of up to 10% of your future gift.

Your commitment will help us defend democracy today and protect civil liberties tomorrow.

For more information, visit aclu.org/jointhechallenge.

Legislative Recap

With a full-time presence in the state house, the ACLU played a key role in advancing Vermonters' civil rights in the [2017-2018 biennium](#). This past session, we tracked more than 140 bills and testified on dozens of issues affecting civil liberties. We are grateful to our members who contacted representatives at critical moments—your efforts made a difference and we thank you.

Some highlights of the session included a bill to combat sexual harassment in the workplace; creation of a commission to overhaul Vermont's sentencing laws; the rejection (again) of roadside saliva testing; and a 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.

While we have many victories to celebrate together, there were significant setbacks, with Governor Scott vetoing living wage and paid family leave and the legislature abandoning a promising effort to create ethnic studies standards in Vermont schools.

For all we accomplished, we believe Vermont must do more to rise to the occasion at this moment in our history. That includes rejecting attacks on our teachers and schools

and investing more in families and communities. It includes broader privacy protections for the digital age and more robust limits on police surveillance. And, it includes reducing Vermont's damaging reliance on incarceration.



The ACLU is working hard to engage more Vermonters in the political process, and we look forward to the next biennium with the support of our members and the power of the people on our side.

2018 ANNUAL MEETING



ACLU-Vermont Annual Meeting

September 22, 2018

1:30-4:30 p.m.

Noble Hall, 39 College St.
Vermont College of Fine Arts
Montpelier

All members and friends of the ACLU are invited to join us at this year's annual meeting in September

This year, our meeting will feature an in-depth discussion of Smart Justice Vermont, the ACLU's statewide campaign to cut Vermont's incarceration rate in half and eliminate racial disparities that are among the worst in the nation. ACLU staff will share campaign updates and strategies, and lead a conversation with our members about how we can build a smarter, fairer justice system in Vermont and for the country at large.

Our discussion will be followed by reports from ACLU of Vermont Board President Julie Kalish and Executive Director James Duff Lyall, as well as an awards presentation and announcement of Board election results.

Reservations aren't necessary, but an RSVP via email to info@aclvt.org or by calling (802) 223-6304 x 411 would be appreciated in order to help us plan.

DIRECTIONS: From Exit 8 off of I-89, follow the access road and make a left at the fourth stop light (Main Street/Route 12N). At the next stop light, make a right onto East State Street.

The VCFA campus is at the top of the hill, and when you reach the T-intersection with College Street, turn right. Noble Hall (39 College Street) will be on the left a short distance down the street immediately beyond the painted cross walk.

Parking is available along the street or in college lots (lot passes available at the door). Those with special parking needs should contact the office at info@aclvt.org to make arrangements.





2018 Board Election

This year, six ACLU members have been nominated for six vacancies for three-year terms on the ACLU-VT and ACLUF-VT Boards of Directors.

Voting will take place online through Friday, September 21. To vote online, go to www.acluvt.org/election2018.

If you're unable to vote online, you may request a paper ballot by emailing info@acluvt.org, calling 802-223-6304 x411, or by writing ACLU-VT, PO Box 277, Montpelier, VT 05601. If mailing your ballot, please include your name and address on your envelope so that we can verify your voting eligibility as a current member of the ACLU.

Results will be announced at the annual meeting.

We value the participation of our members and hope to see you in person at our upcoming [Annual Meeting](#), Saturday, September 22nd from 1:30-4:30 pm at Noble Hall, 39 College St., Vermont College of Fine Arts, Montpelier.