



NEW HAMPSHIRE CIVIL LIBERTIES

VOTING RIGHTS UNDER ATTACK

Elections are supposed to belong to the people, but this November hundreds of thousands of eligible voters could find it harder to cast a ballot. Since the 2010 elections, 22 states passed laws restricting voting rights, ranging from photo ID requirements to cutbacks on early voting to restrictions on voter registration. Sadly, New Hampshire is one of these states.

The NHCLU, with the help of the law firm Shaheen and Gordon, PA and attorney Alan Cronheim—our Voting Rights Legal Team—successfully challenged a 2012 state voter suppression law that would have frozen out students and other eligible voters from the elections. Agreeing with our argument, the state Superior Court ruled the law was “unduly restrictive and/or unreasonable.”

Also unreasonable are the burdensome obstacles for getting an acceptable form of identification. In October, the U.S. Supreme Court temporarily blocked the implementation of the Wisconsin voter ID law in the state’s upcoming election.

In that case, the ACLU is representing clients like Ruthelle Frank, pictured at right, who has voted in every election since 1948. But she was unable to obtain the necessary ID to vote because of a misspelling on her birth certificate.

The intent of the Wisconsin law and others like it is to let some people vote but not others. Politicians in these states seem to be more interested in changing the shape of the electorate than in election integrity.



Ruthelle Frank, Wisconsin voter since 1948

That’s why comedian Lewis Black has joined the ACLU in speaking out, saying “F#! Voter Suppression” in an open letter to politicians and a video that aired on MSNBC.

The NHCLU continues to fight to preserve the integrity of elections. We recently filed a lawsuit on behalf of the Libertarian Party challenging a law that restricts the ability of third parties to gain access to the ballot. The right to vote means little if the state can arbitrarily impose restrictions on ballot access.

We will continue to advocate for the broadest opportunities to participate in elections, such as early voting. In 2012, 32% of all voters in the country relied on early voting, but that number did not include New Hampshire residents.

Isn’t it time that New Hampshire makes it easier for eligible voters to exercise their most fundamental right in our democracy?

SERVING OUR COMMUNITY OR OCCUPYING IT?

The police response to protests in Ferguson, Missouri this summer ignited a national debate about the militarization of police departments in big cities and small towns across the country. Many Americans watched in horror as local law enforcement officers threatened to kill peaceful protesters, jailed journalists, and pointed assault rifles at people exercising their right to peaceably assemble.

The issue of militarized, aggressive policing predates the Ferguson protests. For decades, the federal government has been funneling billions of dollars worth of equipment to local law enforcement agencies.

The amassing of arsenals of combat-ready, military grade weapons has turned officers who are supposed to fight crime and protect communities into what looks like an invading army.

This transformation has happened without much if any accountability or transparency. And, as we saw in Ferguson, the impact can be devastating. The use of these military weapons and war tactics by local police undeniably escalates the risk of violence in police encounters.

It also has a damaging impact on communities of color and poor communities, and clearly undermines individual liberties.



So, how many of these federal militarization dollars are being pumped into New Hampshire?

Millions of dollars worth of military equipment flowed from the Defense Department to New Hampshire law enforcement from 2011 to 2012. And the Department of Homeland Security funneled hundreds of thousands more dollars to Granite State police for the purchase of military style vehicles and equipment.

Yet many residents don't understand how that equipment is being used or know if it's part of their town's police force.

In 2013, as part of ACLU's investigation into police militarization nationwide, the NHCLU filed right-to-know requests with several New Hampshire police departments. We found questionable justifications for acquiring some of the military equipment. Moreover, we were alarmed to learn that much of the information we sought on use of SWAT teams and military equipment simply wasn't even tracked.

New Hampshire needs to keep closer tabs on how federal funding of militarization is affecting our local law enforcement. The NHCLU is committed to pursuing greater accountability on the need, purpose and use of militarized tactics and equipment in our state.

After all, law enforcement should be serving our communities, not occupying them.

NO STANDING TO SEPARATE CHURCH & STATE

Since its founding in 1920, the ACLU has worked to ensure the First Amendment principle that government “shall make no law respecting an establishment of religion.”

New Hampshire’s Constitution provides even broader protections, especially when it comes to education. It states that “no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination.” Furthermore, “no person shall ever be compelled to pay towards the support of the schools of any sect or denomination.”

These provisions confirm the freedom of all citizens to live in a state where the government is not providing public resources to religion.

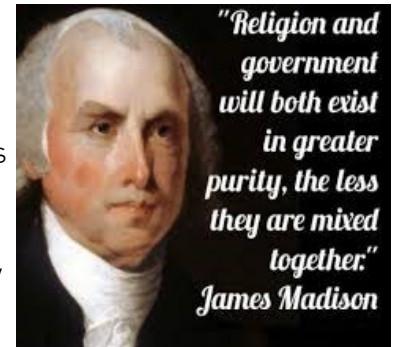
In the last several years, however, these fundamental principles have come under attack. In 2012, the New Hampshire legislature, over the Governor’s veto, passed an education tax credit program that explicitly allows taxpayer dollars to be used to fund religious schools. Under this program, state businesses receive an 85% tax credit for their donations to K-12 scholarship organizations, which in turn pay for students’ tuition at religious and other private schools.

In short, rather than paying their taxes to the state, New Hampshire businesses are instead able to direct the money that is owed to the state toward religious education.



In January 2013, nine New Hampshire parents and taxpayers—represented by the NHCLU, the ACLU, and Americans United for Separation of Church and State—challenged the program in court. In June of that year, the Strafford County Superior Court struck down part of the tax program, ruling that the state is expressly forbidden from funding religious education under our state constitution.

This August, the New Hampshire Supreme Court dismissed NHCLU’s lawsuit. The Court did not even rule on the constitutionality of the program. Instead it ruled that the plaintiffs did not have “standing” to bring the lawsuit solely as taxpayers.



This decision conflicts with over a century of precedent allowing taxpayer suits in the state. It will also significantly impact government accountability because, even if the education tax credit program is unconstitutional, now it will be exceedingly difficult for a plaintiff to ever challenge the program.

Even worse, this decision could potentially render these critical state constitutional provisions unenforceable. The only persons frequently injured by violations of these provisions would be taxpayers who are now precluded from bringing lawsuits.

Government should not be entangled in matters of faith, as it is in this case. These issues are properly reserved for individuals, families, and religious communities. We believe that keeping government out of religious matters is a core principle in New Hampshire’s Constitution, one that demands our ongoing vigilance in the courts and the legislature.



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JAILED 33 DAYS FOR A WALK IN THE PARK

Criminalizing poverty is alive and well in New Hampshire. We represent a 24-year-old man who is homeless and spent 33 days in jail simply for walking in a park. In May, Jeff Pendleton, pictured here, was hauled off to jail for walking along a public foot path in the park adjacent to the Nashua public library.

Jeff was arrested for criminal trespass in violation of a verbal "no trespass" order he received a month earlier. This order banned him from the library and the adjacent park, including its walkways, green space, and benches. His bail was \$100 but he did not have the money so he had to spend the next 33 days in jail. After his release, the NHCLU secured the dismissal of the criminal charge.

Parks are protected places under the First Amendment. They are places for the public—the poor and affluent alike—to congregate and enjoy. Jeff had every right to be in the walkway in that park. Moreover, the verbal "no trespass" order violated his due process rights because it denied him the opportunity to challenge the order. The NHCLU has sought civil damages for these constitutional violations.

Using law enforcement to target the poor dehumanizes these members of our community and ostracizes them from the services they need most to get out of poverty. New Hampshire can't shut its eyes to poverty or sweep it out of sight. The NHCLU will continue to fight for the constitutional rights of the poor and homeless.

