



NEW HAMPSHIRE Civil Liberties News

AN AFFILIATE OF THE ACLU

BECAUSE FREEDOM CAN'T PROTECT ITSELF

DECEMBER 2007

Sale of Voter Data Ruled Unconstitutional

A new law that allowed the state to sell detailed voter information was ruled unconstitutional by Judge Carol Ann Conboy in Merrimack County Superior Court last month.

The New Hampshire Civil Liberties Union challenged the law on behalf of the Libertarian Party because the statute allowed only "major political parties" to access the information. Since state law defines a "major" party as one that has received 4 percent of the vote in a prior statewide election, only the Democratic and Republican parties qualified to purchase the list.

Judge Conboy said that the law put small parties "at a distinct disadvantage," and that "discriminatory restriction" is not justified by state interests. She cited a section of New Hampshire's constitution that calls for every qualified citizen to have "an equal right to be elected into office."

Before the law went into effect in July, voter data such as name and party registration history had been available on a town-by-town basis, or in a statewide list available from the Secretary of State. The new statewide voter list includes year of birth and gender, information that had never been released.

Annual Dinner

by Claire Ebel, Executive Director

A capacity crowd rose repeatedly to honor the award recipients at the 22nd annual Bill of Rights Dinner on November 10th.

Jennifer Dalven, Deputy Director of the ACLU Reproductive Freedom Project, received the 2007 Bill of Rights Award for her tireless work to challenge the 2003 New Hampshire parental notification law. Jen was extraordinary in her oral argument before the United States Supreme Court.

The challenge was ultimately upheld by a unanimous United States Supreme Court, which ruled that a restriction on a woman's right to choose must contain exceptions for her life and her health.

Several attorneys who participated in the successful challenge were also honored.

see "Dinner" on page 3

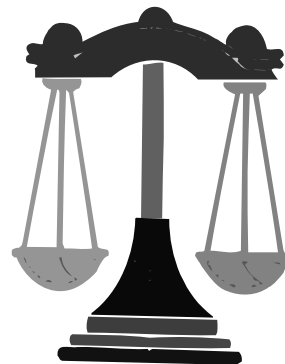
"I think this is an important ruling for a marketplace of ideas," said Barbara Keshen, NHCLU staff attorney on the case, "where minority views have at least the same opportunity to be expressed and heard as the views of the majority."

The attorney general's office had argued that the state interest behind selling the data only to major parties was to protect voter privacy. Judge Conboy questioned that reasoning, saying that the voter file had been created to aid the state in running elections and compiling jury lists and that the law included criminal penalties for disclosure of voter data. "Against this backdrop, the Court cannot accept the proposition that major party access to the database is justified by the asserted need to protect voter privacy," Conboy wrote in the ruling.

Representative Neal Kurk spoke eloquently in court for the privacy rights of voters: "Politicians may want to tailor their messages to women or seniors, but the state has the duty to protect the privacy of all of its citizens."

The new list can no longer be sold. However, it is unclear what will become of the files that have already been purchased. The first hearing on this issue was scheduled for early December.

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**77 CENTRAL AVENUE
MANCHESTER, NH 03101
669-7070
WWW.NIXONLAW.COM**

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THIS YEAR'S DINNER SPONSOR**

Office Notes

Your Support is Crucial

As is evidenced in this newsletter, an attorney on staff, even for only one year, has made a huge difference in our ability to respond to requests for assistance and to meet challenges head-on. Thanks to our growing caseload as well as our outreach to communities struggling with civil liberties issues, our legal presence in New Hampshire has never been stronger. We need your help to continue to lead the fight to defend individual liberty in the "Live Free or Die" state. Please use the enclosed envelope to make your contribution.



Leave Your Legacy

The NHCLU and ACLU experienced such a groundswell of support through 2005 and 2006 in planned gifts, that Robert Wilson of New York has extended his commitment, matching your bequest provision with up to \$10,000 in immediate cash for Foundation programs.

All bequests and cash matches from New Hampshire are shared between the national office of the ACLU and the

NHCLU according to a sharing formula: 37.5% comes to New Hampshire, 37.5% to the national office and the remaining 25% goes to the Affiliate Development Fund.

The Office of Gift Planning is happy to work with you to assist you in your estate plans. Please feel free to call them at 877-867-1025.

To Surf or Not to Surf

We regret that our website has been down. The prior host, unfortunately, cancelled our website without notice. We are currently working on a new and improved site, and (keep your fingers crossed) it should be up

and running within the next few weeks. Thank you for your patience.

25th Anniversary Celebration

In September, our Executive Director, Claire Ebel, began her 26th year with the New Hampshire Civil Liberties Union. A fundraising event to celebrate this milestone is in the works. Stay tuned.

National Issues - NH Voices

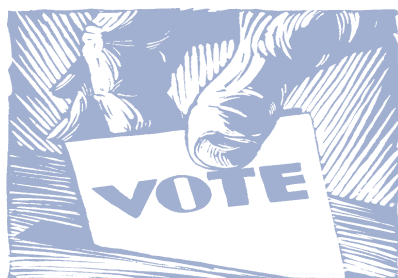
The presidential primary campaign is racing toward New Hampshire's January 8, 2008 date. There are significant civil liberties issues that do not seem to be on the radar screens of the candidates or the national media. Perhaps you could ask every candidate for their positions on the following:

Real ID/National ID

New Hampshire voted to refuse to participate in the federal Real ID mandate. Where do you stand on a mandatory federal ID?

Marriage Equality

New Hampshire passed a Civil Union bill but defeated a proposal to permit gays and lesbians to marry. Where do you stand on the right of same gender couples to marry?



Public Financing of Elections

New Hampshire has voluntary limits on campaign expenditures. Presidential candidates

can agree to limit campaign spending and accept federal public funds. Where do you stand on full public funding of elections at the federal and/or the local level?



Torture

It is inevitable that a New Hampshire resident will be one of the individuals who is detained, subjected to extraordinary rendition and a victim of torture, at the hands of the United States government or a foreign government of our choosing. Where do you stand on the use of torture as an interrogation technique?

Habeus Corpus

The Great Writ (another name for habeus corpus) allows incarcerated individuals to challenge their detention before a judge. The current administration continues to maintain that indefinite detention with no access to a court is constitutional. Where do you stand on the restoration of the right of habeus corpus?

Dinner *(continued from page 1)*

Louise Melling, Director of the Reproductive Freedom Project, was recognized for her significant legal efforts in the preparation of the amicus briefs, especially those submitted by the medical community.

Martin Honigberg represented Planned Parenthood of Northern New England at all stages of the litigation and provided advice on New Hampshire law to the RFP attorneys.

Lawrence Vogelmann, then Legal Director of the NHCLU, represented the NHCLU and gave guidance and legal direction during the two year appellate battle to strike down the statute.

Steven Shapiro, Legal Director of the ACLU, was also honored for his legal supervision of the briefs submitted to the courts that persuaded district, circuit and ultimately the U.S. Supreme Court, to hold the law unconstitutional.

In her remarks, Jen Dalven applauded the courage of our plaintiffs – the Concord Feminist Health Center, the Feminist Health Center of Portsmouth, Dr. Wayne Goldner, and PPNNE and Planned Parenthood Federal of America.

In describing the United States Supreme Court, Jen confirmed the fears of the pro-choice community: “This Court doesn’t think too highly of women. The

Court treats women as incapable of making an informed decision about abortion. It rationalizes its decision upholding the federal abortion ban as a means of protecting women who in its view are incapable of protecting themselves.”

She then asked the audience to continue to put a human face on reproductive choice – an issue that affects real women, real families, real lives.

Steve Shapiro then gave the keynote address. A hushed crowd listened in horror as he described the ACLU plaintiff in a federal lawsuit who was the victim of extraordinary rendition – kidnapped by United States intelligence agents, detained without charges, then transported to eastern Europe where he was tortured for five months and then abandoned on a remote mountaintop in frigid weather without clothing or a means of travel.

Steve went on to challenge all of us. “America does not condone or facilitate torture – not because it places our soldiers at risk, but because it is un-American, it is not who we are as a nation.”

“Our soul as a nation is the center of this struggle. The constitutional rights of all residents must be protected, regardless of the views that they hold. It is inconvenient, but it is America.”

Legal *(continued from back page)*



First Amendment

“*Manchester 9*”: We represented nine peace activists in Manchester District Court who were charged with criminal trespass

when they refused to leave Senator John Sununu’s office without an opportunity to talk with him about his votes supporting the war in Iraq. The court, on its own motion, reduced the charges to a Class B misdemeanor, which eliminated their ability to have a jury trial. All nine were given suspended sentences.



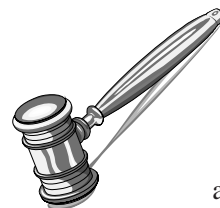
First Amendment: We successfully challenged a newly enacted ordinance in the town of Jaffrey that imposed severe restrictions on the First Amendment rights of individuals and groups by imposing overly burdensome fees to hold events on the public square.

When we expressed our concern to the acting Town Manager, Jaffrey repealed the ordinance.



Right to Know:

We contacted the Manchester Police Department after a complainant notified us of exorbitant photocopying charges. The PD dropped their charges from \$5 per page to 25 cents per page.



Additionally:

Barbara serves on several committees, including Health in Corrections, a legislative committee headed by Representative Cindy Rosenwald, and the Access to Justice Commission, a New Hampshire Supreme Court initiative, headed by Justice Duggan. She has attended for all over the state regarding residency requirements for sex offenders, as well as written Letters to the Editor and met with other like-minded agencies to coordinate an approach to lobbying against restrictions. Barbara has also had several articles published in the Concord Monitor, the Monadnock Ledger and the NH Bar News.

Legal Cases & Outreach



Students' Rights

Doran v. ConVal: We filed a lawsuit in Hillsborough South Superior Court on behalf of students at ConVal High School, demanding that the school desist from a policy permitting canines into the school on a random basis to search students' property for drugs.



Right to Choose

Ayotte v. PPNNE, et al: In a unanimous 2006 decision, the United States Supreme Court reaffirmed that any restriction on a woman's right to choose must contain an exception to protect her health, and sent the case back to the lower court to determine legislative intent. In January of 2007, the New Hampshire Legislature repealed the unconstitutional statute, the governor signed the repeal bill, and the New Hampshire parental notification law is no more.



Privacy Rights

State v. Griseliz Fernandez: We filed a motion to dismiss charges against a woman whose infant tested positive for trace amounts of cocaine. The State had filed criminal charges of endangering the welfare of a child against the woman. The charges were dropped.



Prisoners' Rights

Towle v. Department of Corrections: We filed a lawsuit on behalf of an inmate at the New Hampshire State Prison who has been denied visits with his wife because she has a felony conviction. We believed that the prison had misapplied its own rules regarding familial visits. The DOC has changed its rules, and the inmate now has visits with his wife.

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December, 2007

"He that would make his own liberty secure must guard even his enemy from oppression."

- Thomas Paine
