



FIGHT TO END DISCRIMINATION BASED ON A PERSON'S CRIMINAL RECORD CONTINUES



Connecticut will be safer, stronger, and fairer if people who are returning home after incarceration have the resources they need to support themselves and their families. Yet people living with a criminal record in Connecticut face more than 600 legal and policy barriers to being full members of society.

Smart Justice is committed to changing that by prohibiting discrimination against people on the basis of their criminal record. This year, as step one toward that goal, Smart Justice advocated for House Bill 6921, a bill to prohibit discrimination on the basis of a person's criminal record in things like housing, employment, insurance, education, and public services and accommodations.

The bill, introduced by Representative Robyn Porter, was the first of its kind in the country.

"All people in the U.S. pay the human and financial prices of discrimination against people living with a criminal record, and we cannot afford the cost," said ACLU of Connecticut Smart Justice field organizer Anderson Curtis, who testified in support of the bill during its public hearing at the legislature.

So many Smart Justice supporters turned out for the bill's public hearing in February, that the legislative committee's chairs had to move the hearing to a larger room. A labor union, legislators, a Hartford city councilmember, clergy, Smart Justice leaders, and fellow criminal justice reform advocates joined Smart Justice in supporting the bill.

Weeks later, Connecticut's legislature – prompted by advocacy from Smart Justice leaders – made history by becoming the first to pass this kind of anti-discrimination bill out of a legislative committee. In order to

be able to come back next year with an even stronger bill, however, the bill was amended on the floor of the House of Representatives to instead create the Council on the Collateral Consequences of a Criminal Record. That amended bill passed the

74%

of Connecticut voters support the legislature passing a bill to prohibit formerly incarcerated people from being discriminated against based on their criminal record



House 108 – 37 and, in the literal last minute of the legislative session, unanimously passed through the Senate. At press time, it awaits action from Governor Lamont.

“The Council on the Collateral Consequences of a Criminal Record will be a pipeline for ideas for Connecticut to make thoughtful, strategic decisions about how to end discrimination against people on the basis of their criminal record,” said Curtis. “Smart Justice looks forward to working with the Council on the Collateral Consequences of a Criminal Record to continue the effort to ensure Connecticut invests

in people, not incarceration.”

The Council will be tasked with studying discrimination faced by people who are living with a criminal record in Connecticut, including in areas like housing, employment, public education, public accommodations, insurance, credit, public programs and services, and economic development programs. Following at least three meetings in communities across the state, the Council will make recommendations to the legislature about ways to expand Connecticut’s anti-discrimination laws to prohibit discrimination based on a person’s record of arrest or conviction.



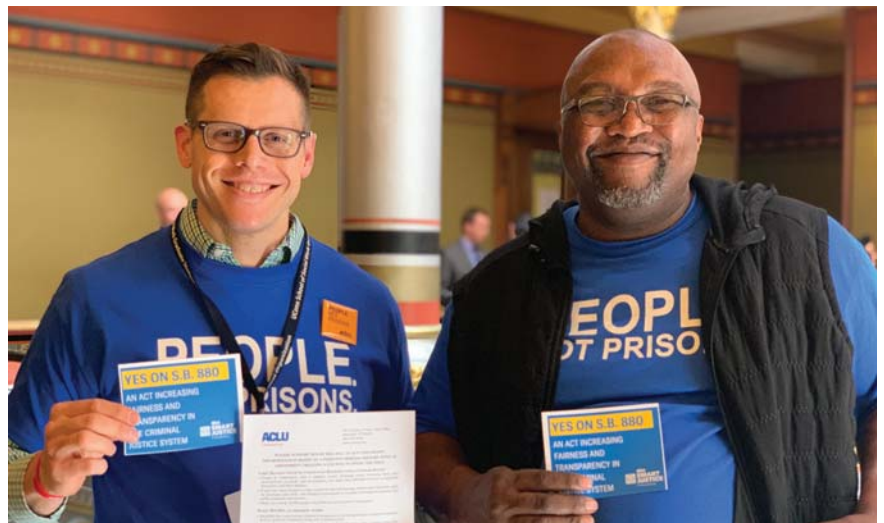
Critically, the Council will also be the first mandated by state law to include a person who has been directly impacted by the justice system themselves.

Smart Justice will be at the Council’s meetings this summer and fall to speak about (and listen to testimony about) barriers people face when reentering our state’s communities – and ways Connecticut can dismantle them. Next year, Smart Justice will again be at the Capitol to push for stronger anti-discrimination legislation, and we will continue this fight to ensure that real reentry is possible for everyone coming home after arrest or incarceration.

HISTORIC CRIMINAL JUSTICE COMMISSION APPOINTMENT IS FIRST STEP IN SMART JUSTICE PROSECUTOR ACCOUNTABILITY WORK

Last July, the ACLU of Connecticut Smart Justice campaign walked into the Connecticut Chief State’s Attorney’s office. The state Criminal Justice Commission (CJC) was interviewing five candidates for the role of deputy chief state’s attorney for operations, the second most powerful prosecutor in Connecticut. Smart Justice had questions. Aside from one journalist, Smart Justice leaders were the only members of the public in the audience, and they were the only people to approach the Commission with recommended questions for the applicants.

“I think that the public should be involved in the nomination process, because of the fact



that this is affecting the public in general,” said Smart Justice leader Manny Sandoval, who spent the day watching prosecutors jockey for the job. “These are people that are playing games of monopoly with people’s lives, deciding whether or not to charge certain individuals, to provide appeals, habeas corpus ... The community needs to be more involved in this, and somehow we maybe need to change this process so that we can have more of a voice.”

Less than a year later, Manny’s words had become action. By June, Connecticut’s legislature passed a law to begin opening up the CJC to public input and debate, and CJC included a new, historic member: Dwayne Betts, a nationally-acclaimed memoirist, poet, attorney, Yale Law School graduate, and criminal justice reformer, became the first formerly incarcerated person to serve on the CJC.

Both changes reflected perseverance from the ACLU of Connecticut’s Smart Justice campaign, which has identified prosecutorial accountability as one key tool to accomplish the campaign’s goals of eliminating racism in the justice system and decreasing incarceration by at least 50 percent.

Connecticut does not elect prosecutors, called “state’s attorneys”

here. Instead, they are selected by the CJC, a body mandated by the state Constitution, whose members are nominated by the Governor and approved by the legislature.

Last fall, spurred by Sandoval’s idea, Smart Justice took to the campaign trail, where campaign leaders and organizers asked all candidates for Governor if they would, within their first 100 days in office, appoint a justice-impacted person committed to criminal justice reform to the CJC. Then-candidate Ned Lamont ultimately committed to doing so.

Following his election as Governor, Lamont created a criminal justice reform policy committee for his administration’s transition team, to which he appointed ACLU of Connecticut executive director David McGuire and Smart Justice leader Tiheba Bain. Smart Justice was a vocal force for prosecutorial transparency and accountability in that transition team work, leading the group to release a list of recommendations that included appointing a justice-impacted expert to the CJC and reforming the CJC to require its meetings take place in the legislature (rather than in the Chief State’s Attorney’s office), with formal opportunities for public comment.

The day after Lamont’s inauguration

as Governor, Smart Justice reminded him of his pledge to begin changing the makeup and meeting structure of the CJC. On March 29, Lamont fulfilled his promise to Smart Justice by nominating Betts to serve on the CJC. On June 6, Betts was sworn in to his role, making him the first justice-impacted person to serve on the body in charge of selecting and reviewing Connecticut’s prosecutors.

In the legislature, a prosecutorial bill supported by Smart Justice, S.B. 880, was amended to include changes to when and how the CJC holds its meetings, and the amended version of the bill unanimously passed out of the legislature. Once signed into law by Governor Lamont, the state will have public notice requirements for CJC meetings, require the CJC to hold its meetings at the legislature instead of the Chief State’s Attorney’s office, and create the opportunity for public testimony for any CJC meeting involving appointments, reappointments, removal, or other discipline of the Chief State’s Attorney, deputy chief state’s attorney, or a state’s attorney.

Smart Justice is just getting started on its efforts to create prosecutorial transparency and accountability, and its work to reform the CJC will continue.



STATE WILL TAKE A STEP FORWARD FOR POLICE TRANSPARENCY, AND MORE WORK REMAINS

No one should die or be harmed by police, and police should not be able to hide the number of times they hurt, kill, or threaten people. And while transparency about police uses of force will not bring back people killed by police or prevent police violence, it is a critical tool for exposing injustice and enabling Connecticut to take democratic control over police.

For years, the ACLU of Connecticut has been calling on the Connecticut General Assembly to require the state to collect information about every time police hurt, kill, or chase someone. This year, Connecticut's legislature finally passed a bill that represents a first step toward police transparency.

Senate Bill 380, a bill amended to create police transparency requirements, will require: police to publicly release body camera and dashboard camera recordings, upon request from a member of the public, within 96 hours after a police employee uses force against a person or if the police employee is under disciplinary investigation for the recorded incident; all Connecticut police departments to submit annual use of force reports, including the underlying incident reports for every time police use force against someone, to the state; the expansion of the state's definition of a police "use of force" to include police motor vehicle chases and chokeholds; prosecutors to give a preliminary report to the legislature's Judiciary and Public Safety Committees five days after the cause of death determination for someone who has been killed by police; and prosecutors to investigate every time police kill someone or use deadly force. The bill also prohibits police from shooting into or at, or standing in front of, a fleeing vehicle in most cases, requires police who are entering another jurisdiction during a police pursuit to notify the local police department, and creates a task force to study Connecticut's laws governing police uses of force.



The bill represents a significant improvement over current law, under which people have terrifyingly little information available about when police, who are government employees, hurt or kill people in Connecticut. Existing Connecticut law only requires the state to track and publicly release information regarding police taser use, not other kinds of force. Those reports show that of the people in Connecticut whom police tased or threatened to tase in 2016 (the most recent year for which data is available), 80 percent were unarmed, 49 percent were experiencing a mental health crisis, and 56 percent were people of color.

S.B. 380 is also a step forward for other kinds of transparency about police. By requiring police to release body and dashboard camera footage within 96 hours of police hurting someone, with privacy protections for bystanders and victims of police violence, this law takes a critical first step toward making police body cameras tools to serve the public instead of police PR goals.

While current Connecticut law requires prosecutors to investigate when police shoot, or otherwise use physical force, and kill someone, it does not set a timeframe for when prosecutors need to release any information to the public – right

now, on average, prosecutors take 14 months to release their reports about fatal shootings by police. The bill's requirement for prosecutors to investigate every time police use deadly force and establishing a timeline for prosecutors to release some initial information is therefore an improvement, albeit an incomplete one, over current law.

Although people can try to get information about police through Freedom of Information Act requests, that process is not easy, and police regularly challenge those requests. When our client's son, Zoe Dowdell, was shot and killed by police, we had to take legal action to try to get basic information from the New Britain Police Department and Connecticut State Police. It took more than a year for Zoe Dowdell's family to get the information they sought from police about what happened to their son. No family should have to go through what the Dowdell family has gone through.

The ACLU of Connecticut will be watching closely to ensure this bill, should it be signed into law, is implemented correctly. This is an important step forward for police transparency, and we will continue to fight for comprehensive police accountability and an end to police violence and injustice.

AFTER SMART JUSTICE EFFORT, CONNECTICUT POISED TO LEAD COUNTRY WITH PROSECUTOR TRANSPARENCY LAW

Nationwide, 95 percent of criminal cases end in plea deals, meaning it is usually a prosecutor, not a judge or a jury, who decides the fate of someone ensnared in the justice system. Prosecutors hold people's lives in their hands, yet Connecticut residents have very little information about prosecutors' decisions. While racial disparities in Connecticut's prisons and jails are very clear, for instance, it is nearly impossible to pinpoint prosecutors' roles in driving those inequities. The ACLU of Connecticut's Smart Justice campaign has set out to change that.

This year, as a result of a months-long effort from Smart Justice, Connecticut is poised to become the first state with a wide-ranging prosecutorial transparency law. Under a bill passed unanimously by the legislature, Connecticut will collect and publish information about prosecutors' actions on charging, plea deals, diversionary programs, and sentencing, and demographic information to track whether prosecutors treat people differently according to race, age, gender, income, or geography.

The bill is a direct result of the ACLU of Connecticut's Smart Justice leaders, who are directly impacted by the justice system, calling for change, and it is part of a longer-term Smart Justice effort to create meaningful prosecutorial accountability.

"Connecticut voters recognize that with prosecutors' enormous power comes a responsibility for them to be transparent and open with the public, and voters know our state should be collecting and reporting information about what prosecutors do," said Smart Justice field organizer Gus Marks-Hamilton.

Last summer and fall, Smart Justice asked all candidates for Governor if they would introduce legislation to require the state to collect and publish statistics about prosecutors' decisions. Then-candidate Ned



Lamont pledged to do so. Following a Smart Justice-led sign-on request from nearly 30 organizations, Lamont publicly released a criminal justice reform platform. In December, Smart Justice was a vocal presence on Governor Lamont's criminal justice policy transition team, leading the group to release a list of recommendations that included introducing prosecutorial transparency legislation.

Surrounded by powerful legislators and advocates, Smart Justice launched at the Capitol in January.

Field organizers Anderson Curtis, Gus Marks-Hamilton, and Sandy LoMonico became registered lobbyists, and Smart Justice immediately began educating legislators about the need for a law to open up what one news outlet called "the black box of prosecutors' decisions."

Ten months after Smart Justice first asked if he would introduce and support prosecutorial transparency legislation, Governor Lamont fulfilled one of his promises by proposing S.B. 880, An Act Increasing Fairness and Transparency in the Criminal Justice System. Smart Justice flooded the Capitol for S.B. 880's public hearing. In a powerful, silent display of solidarity, a hearing room full of supporters stood in unison as Marks-Hamilton and ACLU of Connecticut executive director David McGuire testified about the need for information about what prosecutors do.

"Transparency is critical for our democracy, and no part of the government should be exempt from sunlight," said Marks-Hamilton. "If our state is going to create a smarter justice system, all of us need numbers on what prosecutors are doing."

72%
of Connecticut voters say creating more transparency about prosecutors' decisions would allow the state to create a better justice system.



Bolstered by Smart Justice-commissioned public opinion polling showing statewide bipartisan support for a bill like S.B. 880, leaders continued lobbying for the bill, ultimately gathering support from victims' rights and criminal justice reform groups, a bipartisan group of legislators, and the Chief State's Attorney.

On May 28, 2019, days after a final push in which dozens of Smart Justice leaders rallied at the Capitol in support of S.B. 880, the Senate unanimously passed the bill. On June 4, the House of Representatives followed and unanimously passed the bill.



In May, Smart Justice leader Tracie Bernardi and field organizer Anderson Curtis accepted the 2019 Connecticut Coalition to End Homelessness Social Justice Award on behalf of Smart Justice.



LEGISLATIVE SESSION BY THE NUMBERS



ACLU-CT supporters sent more than 1,000 emails to state and local elected officials



More than 100 RSVPs from ACLU-CT supporters to join Smart Justice at events at the Capitol



ACLU-CT weighed in with testimony on more than 105 bills



13 pro-civil liberties bills passed through the legislature with ACLU-CT support



Helped to defeat 22 out of 23 anti-civil liberties bills that we opposed

REPRODUCTIVE FREEDOM & THE ACLU OF CONNECTICUT, 1965–2019

1965

Griswold v Connecticut, U.S. Supreme Court overturns Connecticut's ban on contraception for married couples. Case argued by ACLU-CT co-founder Catherine Roraback, ACLU and ACLU-CT file amicus brief.

1967

Mattiello v Connecticut, ACLU-CT assisted the defense attorney for a young woman convicted under Connecticut's "manifest danger" law, which allowed the state to imprison unmarried women under the age of 21 for being in "inherent danger of falling into manifest habits of vice." Under the law, women were imprisoned for "lascivious carriage," living or working outside of their parents' homes, "sexual" behavior such as accepting a meal from a man who was not their husband, and more. The case reached the U.S. Supreme Court, where the court dismissed it on procedural grounds.

1970

Represented Mary McDaniel to overturn the Middletown public schools' policy requiring pregnant teachers to resign after they were in their fifth month of pregnancy. An arbitrator found the district's policy violated the Civil Rights Act.

1973

State v Sulman, representing a doctor in a challenge to Connecticut's law criminalizing abortion. While the case was on appeal, the U.S. Supreme Court ruled in *Roe v Wade* and *Doe v Bolton* that Texas and Pennsylvania's laws criminalizing abortion were unconstitutional.

1978

Ruby v Massey (amicus) opposing forced sterilization of girls with mental disabilities. The court ultimately declined to "make new law."

1981

Women's Health Services v Maher, lost initial challenge to Connecticut's ban on state-provided insurance coverage of abortion care for low-income women.

1982

Wroblewski v Lexington Gardens, Inc. Et. Al., represented Judith Wroblewski in case against an employer who required women, but not men, to answer invasive questions about their menstrual cycles and reproductive health in employment applications.

1986

Doe v Maher, won challenge to Connecticut's ban on state-provided insurance coverage of abortion care for low-income women.

1990

Lobbied for successful passage of Connecticut state law codifying the legal right to abortion care, creating a firewall for legal abortion if *Roe v Wade* were overturned.

1992

Town of West Hartford and Summit Women's Center v Operation Rescue (amicus) supporting town ordinance meant to ensure safe access to abortion clinic entrances.

2001

Successfully advocated at the legislature to ensure the hospital certificate of need process continued to protect reproductive health services.

2002 & 2003

Defeated legislative attempts to undermine reproductive rights.

2011

National Family Planning and Reproductive Health Association v Leavitt prompts the federal government to eliminate a Department of Health and Human Services rule that allowed insurance companies, hospitals and other health care providers to refuse to offer basic reproductive health services, including birth control and abortion.

2013

Balcastro v Wallingford overturned town police department policy that denied reasonable accommodations to pregnant employees and forced them to take unpaid leave when pregnant.

2018

Alicea v Cromwell overturned town police department policy that forced pregnant workers to leave their jobs without pay until they were no longer pregnant.



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YOU CAN SAY THAT AGAIN.

"I've long believed decreasing our incarceration rates means taking the duty and responsibilities of prosecutors seriously. Being able to bring my experience and skills to the commission would be an honor. Having seen every aspect of the system, I'm certain I can make a positive contribution."

– Reginald Dwayne Betts, a nationally acclaimed memoirist, poet, and attorney, on his nomination to serve on Connecticut's Criminal Justice Commission

"It would be chilling to think that sometimes police departments may act to keep what they consider bad news away from the public by intimidating or arresting the messenger, be that person a reporter, a news photographer, or John Q. Public." – Berlin Citizen and Meriden Record-Journal editorial regarding the Bridgeport Police Department's arrest of protesters and a reporter. The editorial also endorsed a statement from the ACLU of Connecticut regarding police transparency and accountability.

"With the ACLU of Connecticut, you know, that's a fascinating approach to this, is to bring people who have served time in Connecticut prisons, to have them doing the lobbying, have them tell their stories at the Capitol, to be there every day. That stuff really makes a difference, and it did this year." – Connecticut Mirror Capitol Bureau Chief Mark Pazniokas, speaking with WNPR's Lucy Nalpathanchil about the 2019 legislative session

"This breach of our privacy is a reminder that we can never assume those leading us are asking the right questions. It is, as always, on us to hold our leadership accountable to the values they espouse." – Southern Connecticut State University (SCSU) student Téa Carter, in a New Haven Register op-ed calling for change after an ACLU report found that eight Connecticut police agencies, including the SCSU police department, were sharing license plate information with Immigration and Customs Enforcement (ICE)

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THANK YOU

for joining us in the fight for liberty, justice, and equality in Connecticut. You make progress possible.