



NEW JERSEY REPORT CARD

NAME: Gov. Chris Christie

DATE: January 2012

SUBJECT	GRADE
<i>Freedom of Religion</i>	<i>B</i>
<i>Freedom of Speech</i>	<i>F</i>
<i>LGBT Rights</i>	<i>B-</i>
<i>Open Government</i>	<i>D</i>
<i>Police Practices</i>	<i>C</i>
<i>Privacy Rights</i>	<i>C</i>
<i>Reproductive Rights</i>	<i>F</i>
<i>Separation of Powers</i>	<i>D</i>

JANUARY 2012

Civil Liberties in the Garden State

Two years into Gov. Chris Christie's tenure in office, the American Civil Liberties Union of New Jersey (ACLU-NJ) pauses to consider the administration's current record on civil liberties with a mid-term report card. In compiling the Governor's record, the ACLU-NJ sought to include all information — favorable and unfavorable — to produce a fair report. We contacted the Governor's office directly to request its input, but received no response to our initial letter or follow-up inquiries.

Please note that Gov. Christie's priorities throughout his two years in office do not overlap perfectly with the concerns of the ACLU-NJ, giving some areas used to evaluate his performance a more extensive record than others.

SUBJECT: Freedom of Religion **GRADE:** B

Gov. Christie has made headlines several times throughout his time in office for defending the religious freedom of Muslims and warning against extremists trying to promote discrimination against Islam, most notably during the controversy over plans to build a mosque near Ground Zero. Similarly, he stood by his nomination of Sohail Mohammed to the New Jersey Superior Court when bigots suggested he be disqualified based on his faith.

However, it doesn't seem that Gov. Christie understands the crucial role that the separation of church and state plays in securing religious freedom; he supports school vouchers that would divert taxpayer dollars to private religious schools.

SUBJECT: Freedom of Speech **GRADE:** F

Gov. Christie is known for his own liberal use of free speech rights. However, his record on honoring the right of others to express their beliefs and opinions does not reflect a commitment to our most fundamental American liberty, free speech.

When longtime New Jersey Transit employee Derek Fenton was fired after he burned pages from a Quran on his day off at a protest at ground zero, Gov. Christie said he had no problem with the decision.

“I knew he was going to be fired, and I had no problem with it,” Gov. Christie said at a February 2011 press conference. “And I still don’t have a problem with it.”

The ACLU-NJ had a problem with the flagrant violation of Fenton’s constitutional rights and sued on his behalf. In the end, he got his job back plus \$25,000. Ultimately, the taxpayers paid the costs of New Jersey Transit’s unconstitutional decision.

In another matter, although the Governor said during a radio interview that he understood why protesters at Occupy Trenton took to the streets, he remained silent when the New Jersey Department of Military and Veterans Affairs, with the help of the State Police, attempted to evict Occupy Trenton from Veteran’s Park, opposite the State House. The police confiscated the protesters’ signs, generators, foods and medications. The ACLU-NJ won a preliminary injunction for the protesters in court, which prohibited the state from enforcing the hastily created rules without following required procedures.

SUBJECT: LGBT Rights **GRADE:** B-

Last year, the suicide of Tyler Clementi, a gay student at Rutgers University, stunned not just New Jersey, but the nation. Gov. Christie grieved the loss as “an unspeakable tragedy” and months later signed the toughest anti-bullying law in the country. When Union County teacher Viki Knox wrote homophobic comments on her Facebook wall in 2011, Gov. Christie was quick to condemn her prejudiced sentiments and voiced concern about whether she brought her discrimination into the classroom — the same response as the ACLU, which also stood up for her rights to free speech and due process.

Having one’s heart in the right place, however, does not make up for the governor’s failure to right a wrong. Crucially, Gov. Christie opposes marriage equality and promised to veto a bill if it comes to his desk. Like too many other politicians, it seems that Gov. Christie may personally believe that gay and lesbian couples should have some degree of legal protections, but not enough to stick his neck into a controversial political fight.

SUBJECT: Open Government **GRADE:** D

Gov. Christie ran on a platform of government transparency, but his administration has not shown the same commitment to open government that he displayed when he was a candidate. We were pleased that the Governor signed A559/S1212, which limited the amount that government agencies could charge for copies of public records to 5 cents per page for letter sized and 10 cents for legal sized, a change in law that the ACLU-NJ

worked on for several years. He also introduced a plan that would require members of the Legislature to file financial disclosure statements, detailing income and financial interests. One bill would force lawmakers to either disclose conflicts of interest or recuse themselves from votes that touch on them. These proposed changes have not yet become law.

Unfortunately, those nods to transparency remain the exception rather than the rule. Gov. Christie has ignored pleas for help in obtaining copies of basic policies from the State Police, allowing the agency that only recently came out from under 10 years of federal supervision to operate in secret.

In addition, the state Department of Education refused to release the names of volunteers used to review charter school applications. The ACLU-NJ had to sue on behalf of the Education Law Center to find out who helped the state decide whether to approve charter school applications. Once released, those records suggested that the state was more interested in keeping potential conflicts of interest out of the public eye than in protecting the privacy of volunteers.

We also discovered that members of Christie's administration, such as Education Commissioner Christopher Cerf, have regularly used personal email accounts to conduct public business. This practice makes it difficult to ensure that the public has access to all the records the Open Public Records Act guarantees.

Finally, although a state statute mandates Uniform Crime Reports (UCR) be made public, the current state administrative code requires UCRs remain confidential. UCRs tally the number and nature of offenses in every municipality, including data about gangs and hate crimes that the public has great interest in knowing. The state has failed to change the code to make it comply with the statute, despite requests from the ACLU-NJ to do so. Because of this, some municipalities still rely on the state code to deny requests from citizens for UCR data.

SUBJECT: *Police Practices*

GRADE: C

Overall the Christie administration's efforts to improve statewide police accountability have fallen short, and the ACLU-NJ hopes that police practices will become a higher priority in the next two years.

On the plus side, the Office of Attorney General (OAG) formed a working group to review recommendations from the ACLU-NJ and others to improve the OAG's statewide Internal Affairs policy. The process resulted in a number of revisions that help promote accountability.

However, the OAG took steps backwards by eliminating important reporting requirements for local police internal affairs statistics, something Attorney General Paula Dow had specifically promised to improve.

The ACLU-NJ has requested that the OAG address other serious shortcomings in New Jersey's police practices. For example, the state has no mechanism to decertify police officers terminated for cause; decertification would ensure that other departments do not unknowingly hire officers who have histories of misconduct. The state also lacks a comprehensive policy on police departments' use of confidential informants to investigate suspected criminal activity, a practice that can lead to a range of civil rights violations. Unfortunately, the OAG has thus far declined to address these issues.

With respect to the State Police, just two years after the end of monitoring under the federal consent decree, serious problems have emerged. One disturbing case suggests a high-level State Police cover-up. According to press reports, an off-duty trooper injured a man in an auto accident and conspired with the troopers at the scene to use his undercover officer identity instead of his true identity to avoid being sued and other consequences. Just days after this story broke, and in the middle of the investigation of it, Christie re-nominated Colonel Rick Fuentes.

Lack of transparency is also a recurring theme with the State Police. The State Police have refused to release under the Open Public Records Act policies that describe the process or criteria for determining promotions. After trying for more than a year to get the policies, the ACLU-NJ sent two letters to Gov. Christie imploring him to intervene and order the policies released, to no avail.

SUBJECT: Privacy Rights

GRADE: C

On the plus side, the Governor conditionally vetoed A1406/S799, a bill that would have opened sealed adoption records, which could have resulted in exposing the identity of birth parents without their consent. The Governor's conditional veto changed the language to take the privacy rights of birth parents into account, turning a troubling bill on his desk into a viable solution to the ongoing struggle over adoption records. Unfortunately, the legislature did not act on his veto and the bill died.

Additionally, the decision to opt out of the federal government's invasive "Secure Communities" program, which stockpiles individuals' personal information and fingerprints in a federal database, demonstrates a respect for privacy. New Jersey is only one of seven states to decline to participate in the controversial program, which is aimed at identifying and deporting undocumented immigrants.

However, the Governor has also signed legislation that bodes poorly for privacy rights in New Jersey. In August, Gov. Christie signed A2594/S737 into law, allowing police to collect DNA of people once they have been arrested, before they have even set foot in court. The law violates both privacy and due process rights.

DNA, unlike simple biometric identifiers like a fingerprint or iris scan, contains information about a person and everyone in the same bloodline, including susceptibility to disease and even markers of behavioral predispositions. There are serious security risks and privacy threats inherent in databases of such personal information.

This new law also sets aside the due process principle of “innocent until proven guilty,” with implications for the accused and his or her entire bloodline. Those found not guilty bear the burden of filing a request to have their DNA expunged from state’s database; the new law has no means for people to request removal of their information from the federal government’s nationally aggregated Combined DNA Index System (CODIS) database.

SUBJECT: *Reproductive Rights*

GRADE: F

Gov. Christie opposes women’s right to choose, and he took advantage of the few opportunities presented to him in pro-choice New Jersey to prove it, even when it negatively impacted the state’s bottom line. For example, the Governor eliminated a state budget line that supported women’s health and family planning in the state budget, reducing access to basic health care of countless New Jersey women and children. He also withdrew an application for a federal program that would have covered family planning expenses for women who just missed the income cut-off for Medicaid. This program was designed to save the state upwards of \$70 million as the program matched 9 to 1 for every dollar New Jersey spent. He denied the fact that closing women’s health centers would deprive women of vital services, like breast exams and pap smears.

He has also voiced support for a 24-hour waiting period on abortions. When he spoke at a rally against abortion rights on the 38th anniversary of *Roe. v. Wade*, Gov. Christie called abortion “an issue whose time has come.”

Fortunately, in New Jersey, the pro-choice majority will squelch any such attacks on women’s rights.

SUBJECT: Separation of Powers

GRADE: D

In 2010, the Governor upended more than 60 years of bipartisan tradition by refusing to reappoint New Jersey Supreme Court Justice John J. Wallace, Jr., the Court's only African-American member, who would have been required to retire in 2012. New Jersey's tradition has been to evaluate judges based on their merits: quality, ability, integrity, and not ideology. Gov. Christie's move called that in to question. As Chief Justice Rabner wrote at the time, "[c]itizens who turn to the courts for relief are entitled to have their cases resolved by impartial judges who focus only on the even-handed pursuit of justice; litigants should ever have to worry that a judge may be more concerned about how a decision could affect his or her reappointment."

Most recently, the Governor personally attacked a Superior Court judge, calling into question her integrity and ethics, because he disagreed with the outcome of her ruling regarding his pension reform plans for the judiciary. These statements and others have been seen by many as an attempt to improperly influence the judicial process.

New Jersey's state constitution was specifically designed to create a strong, independent judiciary. Gov. Christie's actions in office and his vocal criticism of the judiciary suggest he is attempting to discredit the judiciary and undermine its constitutional role as an independent branch of government. Democracy depends on three equal branches of government, including a judicial system that New Jerseyans can trust to provide the due process of law we are all guaranteed.

FINAL REMARKS

When Gov. Christie was elected two years ago, he promised to "turn Trenton upside down." The Governor has, as promised, livened things up in the statehouse with his no-holds-barred personality.

On occasion, the Governor took righteous stands that were not always popular with the public. He stood up for a judicial nominee who was criticized because of his religion and supported the building of a community center near ground zero, even though there was a public outcry against it. This speaks to the essence of what civil liberties are about — protecting the rights of everyone, even in the face of fierce opposition and controversy.

For some civil liberties issues, however, the Governor's bluster has been detrimental, particularly in the areas of free speech and reproductive rights. New Jersey residents have paid — financially and with their health — for those decisions. As U.S. attorney, Gov.

Christie made a name for himself by rooting out corruption in government. As a candidate he promised to keep government transparent in order to prevent corruption. Yet as governor, he has drawn the shades on the statehouse.

We hope that he spends the next two years in office respecting the rights of all New Jersey's citizens and prioritizing reforms and initiatives that promote civil liberties.



American Civil Liberties Union of New Jersey
P.O. Box 32159, Newark, NJ 07102
973-642-2086
info@aclu-nj.org
www.aclu-nj.org