



Episode 1,443: You Don't Need to See This List of Bad Cops, Citizen

Guest: Carla Gericke

WOODS: I'm always happy to find out what's going on in New Hampshire, and you seem to be pretty plugged into pretty much everything that would be of interest to libertarians over there. So let's start talking about surveillance cameras. This is a major local issue in a lot of places, and the nice thing about New Hampshire is there's a Carla Gericke who keeps an eye on these bad guys and raises a stink. So the ACLU is involved; it's an interesting story. Tell me exactly where this is happening and what exactly is the policy that law enforcement, I guess, has recently implemented.

GERICKE: Yeah, so I guess, as you said, it's good to have me here, because I like to keep an eye on these things. So I was actually visiting South Africa in December, where I'm originally from, and apparently, the cops put up some temporary surveillance cameras downtown during the month of December, so I wasn't paying attention, and I wasn't here. And I got back, and then I happened to read an article in the newspaper saying, *Oh, and by the way, we're going to put up these permanent surveillance cameras now.* And needless to say, that didn't sit very well with me.

We know it's something that is certainly happening all over the country. I used to live in New York City. I mean, there are just cameras everywhere. They're overseas in London and those kinds of places. But here in New Hampshire, obviously home of the Free State Project, we like to do things a little differently. And I think it's fair to say that we actually have a culture that sort of appreciates privacy, sort of appreciates that "live free or die" ethos, and the idea of surveillance cameras just willy-nilly going up all over the state seems kind of gross and seems like a gross violation of our rights.

And so maybe a month ago or so, I got contacted by the ACLU. And they said: hey, we also don't like this idea of these cameras just sort of going up, and would you be interested in joining this lawsuit that we want to file? So it's an injunction, so we're basically saying: hey, guys, you don't get to actually put these cameras up. You've got to wait for a while, and let's figure out if this is even legal.

So here in New Hampshire, because we sort of appreciate our privacy rights more, there's this weird law from 2006 that the main petitioner in the ACLU law suit, Neal Kurk, he's a state representative, he's retired now, but he had worked on this case because he's a big privacy nut. And he had said, when they wanted to introduce surveillance cameras just on the highways – so we're talking about sort of toll cameras and license plate scanners and all of that kind of stuff. So back in 2006, he already introduced a law that said: you know what? Whoa, no. General surveillance in New Hampshire is going to be illegal. We don't even want

these scanners. We don't want this sort of move towards the big bad brother that we sort of see happening all over the world. And so they wrote a law, which did pass, that said general surveillance is prohibited.

So for the lawsuit that we're currently in, we're kind of saying: hey, guys, here's this law that says general surveillance is prohibited. We looked at the specs of your cameras, that are actually officially called surveillance cameras specs, and these cameras are clearly going to capture motorists' identities and going to capture license plates, and that is generally prohibited in New Hampshire. So we think we have a pretty strong case on the face of it, but it's going to be an interesting one to see what happened.

WOODS: So the purpose of these cameras, presumably, is to enforce traffic laws?

GERICKE: No, so in Manchester itself, the purpose of the cameras, they're sort of framing it as a security issue. Unfortunately, as I think is happening in a lot of places in the States, we were hit pretty hard with the opioid crisis. So we are seeing panhandling. There is more homelessness. So I think there was a lot of businesses that are sort of asking for this, but I don't think it's the solution to the problem, and there's certainly lots of surveys and lots of things that show that this is probably not going to help with the problem.

So right now, the MPD, the Manchester PD is sort of framing it as this is something that the businesses are asking for. And my counter to that is actually: fine, so let's have the businesses set up security cameras. That's a way where, if there are security concerns, we can certainly work together with the businesses, and the police could work and get the private footage. But that way, we have it as a decentralized approach, which of course, you and I are going to prefer over, *Hey, let's create like some centralized command center, where one group of people have access to this data.*

And for me, as well, it's just that they just kind of said, *Hey, we're going to do this.* There was really no conversation about it. We didn't have any community conversations, or I didn't see anything on any of the agendas to go to City Hall. It was just sort of presented as a fait accompli. And I was like, I don't know, like I think legitimately we should have a conversation if that's something we want.

I should also add, last year with the 2018 election, we actually introduced two constitutional amendments to the New Hampshire constitution, and one of them had to do specifically with privacy. And it's a pretty cool. It's a little broad, and I'm not sure if this camera case is entirely 100% the right test case for it, but the amendment basically says an individual's right to live free from governmental intrusion in private and personal information is natural, essential, and inherent. And that amendment passed with 81% support. So I think it's fair to say the average Granite Stater is like not super keen on, I don't know, Big Brother just coming along and saying: hey, we're just going to surveil everything privately and secretly and not even tell you what we're doing with the footage.

WOODS: Can you describe for me what is the nature, precise nature, of the problem they claim to be solving, and is there any other way to solve it?

GERICKE: Well, so the precise nature that they're claiming is that somehow having these cameras is going to help with a panhandler problem, which considering we've had the

temporary camera up since December and it doesn't really seem to have solved that problem – I mean, I think they're trying to backdoor it so that they'll say, we'll have footage, we'll keep it for 14 days, and that way, if there is some kind of crime, we'll be able to look at the footage, identify who committed it, and then go round them up. Realistically, I don't think that's really how it's being used. And once again, I think that the private sector can equally address that concern without opening a myriad of other issues, including a permanent surveillance state with no checks and balances.

I mean, also here in New Hampshire, we have, and it's an organization I'm involved with now, but Right to Know New Hampshire. So we have this sort of open government law. And so one of the questions is, okay, great, so if you guys are going to have this footage for – they're now trying to come up with policies and kind of go, okay, this is how we're going to do it. If you're going to have this surveillance, they say they're going to keep it for 14 days, is the footage subject to Right to Know requests? So if someone's having an acrimonious divorce, can you suddenly start tracking someone where they were downtown? I mean, I just think that it opens a lot of questions, and that we should have that community discussion before they just go ahead and do it.

WOODS: So where do things stand right now in this case? Where are things?

GERICKE: Sure, so we were supposed to have a hearing last week, and unfortunately, the judge recused herself. And so we have a new hearing date, which will be next Tuesday. That sounds like it's going to be a pretty short hearing. It's 20 to 30 minutes; both sides are just going to argue their position. Interestingly, the City of Manchester has taken the position that, hey, well, like five other communities in New Hampshire are doing this, so it must be legal. And of course, we're saying, well, if they're doing it, they're probably also breaking the law, and there just weren't any awesome privacy advocates who are sort of watching the game and saying we don't want this to happen.

So we'll have the hearing next week, and I'll certainly happily come back. I assume the judge will take some time to think about it. I think our pleadings are pretty strong. I don't think they really have a straight-faced argument to say that they're not violating that law. I do think what's going to happen, though, is they're going to say, okay, we will not capture your identifying motorists or identifying license plates. I don't think they can really do that. But I think that's the argument they're going to make. So we'll find out next week. We'll certainly make those arguments on both sides. We'll wait for the judgment, for the judge to say yea or nay. And then, if it goes our way, of course, the city will likely appeal, because as you and I both know, when you're spending other people's money, then it's really fun to fight things in court. But if you're doing it yourself, then it makes it a lot harder.

WOODS: Yeah. Now, there's another cause you've been involved in, and it has to do with a secret list of bad New Hampshire policemen and that this – well, I don't want to steal your thunder. I'll let you tell the story. But apparently, there was a finding that this document listing cops who have terrible records in one way or another – falsifying documents, excessive force, whatever it is – does not need to be kept secret, that it is subject to public review. But apparently, there's been some kind of a stumbling block. There's somebody, I don't know if it's the Attorney General, but somebody is trying to prevent this list from getting out. So what's the story here?

GERICKE: Yeah, so in New Hampshire, uniquely, we have this thing called the Laurie List, and it started probably 12 years ago, and the thinking there was – I'm sure it your listeners may be familiar with the show *Making a Murder*, right, and so there's this provision, it's called the Brady provision, it's a federal thing that says that if there's exculpatory evidence, then there's a duty on the prosecutor to let the defense know. So it's like, hey, if your guy actually has an alibi, you're kind of supposed to tell the other side. Now, of course, they often don't, which is why Brady stuff comes up a lot in appeals. Once you get to the US Supreme Court level, you'll see that come up as a defense a lot at times, meaning that the state just basically hid exonerating evidence.

So because of that, here we have this list that the Attorney General's office is now starting to keep that is supposed to list these officers so that they have a list so that their prosecutors can tell a defense attorney if we have this bad cop on the list. So these are police officers, as you mentioned, that have sustained findings of misconduct. So we're talking about testilying, so basically perjury in court, excessive force, falsifying of police reports. I mean, these are pretty dirty, dirty situations.

So this list has been kept now – it used to be just kept regionally with the different courts, and then a few years ago, they started to centralize the list with the AG's office. So then we realized, oh, wow, there's actually a list, and wouldn't it be great if Joe Schmo could see the list so that we can actually have accountability in our police departments? I mean, I don't think these are the kinds of officers we want to have serving, but we also need to know who they are so that we can clean things up.

So I guess how it started was one of the local newspapers filed a 91-a, so that Right to Know law we were talking about, to get a copy of the list from the AG's office. And what the AG did – and Tom, I will tell you, I got it myself and I was shocked, right. So they sent the list, but they redacted all of the information. So this was like a 21-page list that literally had the date of the incident and which department it was in and what the bad thing they did was, but the name and anything that would allow us to actually identify who the people are was taken out.

So I'll tell you at the time, I was working with the *Union Leader*, which is our big newspaper here, and I mean, I begged them; I was like, please just publish that in the Sunday paper. Like I think an average person would be horrified and really shocked if they were like, *What? You asked for information about bad cops* – these are people with sustained findings of misconduct that have been found with those by their own police chief, and they had to go through a 20-page process to get on that list. There's no question about who these folks are. Let's just put that in the newspaper so people could go, *What? There are eight people from Manchester, for example, on the list, but I'm not allowed to know who they are.*

So the newspapers asked for it. They got this redacted list back. And so they were like, no, no way, come on. So they filed the lawsuit. It's all five of the local papers that we still have, as well as the ACLU. So they filed the lawsuit. And there was a hearing in April, and the judge, to his credit, Judge Temple – I actually attended the hearing. I was sort of there on my own with my "Why protect the bad cops?" poster. And the lawyer for the state from the AG's office actually made the argument that this list should be confidential because it involves things that are in their personnel files. And, oh, by the way, there's really no public interest in knowing who these officers are, which, of course, is ridiculous. I mean, I think of all things, you could say this of all things is kind of something that has a public interest.

So fortunately, the judge agreed with us. Judge Temple said, one, it is not confidential. It is not part of their personnel file. This is entirely different information. And he said it's not subject to anything that is an exception to the Right to Know laws. So they can't say, oh, it falls under this exception. And thirdly, that the list should be made public. So we were like, yay, that's awesome.

So in my wisdom, in between the time that we got that judgment – and we were pretty sure they were going to appeal – I was like, ooh, I'm going to file a Right to Know in between that window. So I did, and I sent it via email and then followed up with a written mailed-in request as well. And of course, they timed it so they took when they got the mailed-in request. So basically, they predated it. They pushed it forward and said: oh, sorry, we filed the appeal this morning, so we're not going to give you that information. Sent me a redacted list again, and so now they're appealing it.

So certainly one of the things I'm working on as an advocate for open government and transparent government and maybe some accountability for people who are not doing their jobs, we started this petition, and basically what we're doing is we're asking Governor Sununu to instruct his Attorney General to end the appeal, to withdraw the appeal – because, once again, they're also asking us as taxpayers to fund this, which seems ridiculous to me – and then to release the list, and to commit to keeping that list public and open and accessible to Granite Staters.

So I think we have about 700 people who've signed up so far. It's only been out for a couple of weeks. And so I'm hoping to drum up a lot of interest for that, specifically mostly from Granite State residents, of course, just because we want to keep it a local issue. But it would be great if we could get thousands of people to, one, understand the issue, and then – I'm sure as you know, sometimes there are issues that I work on where not everyone's on my side. Even explaining free markets to a lot of people is kind of an uphill slog at this stage.

But this instinctively is an issue that anyone that I've talked to understands. They understand that it's weird, and why would we have a secret list of bad cops? Like, that's just wrong on the face of it. And so it's really an issue I feel like can open up the door for a lot of conversation with Granite Staters on other issues, but genuinely like on this particular issue, where we can say we don't really want these officers in our community. And if we have them, we should be able to keep an eye on them. And then also, as you well know, we have this sort of problem in America where if an officer gets reprimanded in one place or even fired, which it takes a lot of doing, they'll just move somewhere else and then get taken up into another community. So I'm hoping, long term, we'll start to know who these people are and then be able to hold them both accountable, but also make sure that they're not getting hired into other communities if they've been asked to leave someplace.

WOODS: Tell me about where the Free State Project stands right now. I know that you're past president, but I'm sure you still are plugged in. First of all, I would guess probably about 80% of people listening know what the Free State Project is, but there is still that 20%. So can you tell us what it is, and then are there any updates about successes, victories, or any good developments we might want to know about?

GERICKE: Sure. So the Free State Project is basically a geopolitical movement to concentrate as many libertarians as we can in the great Granite State. So up here in New Hampshire, Live Free or Die, but rather not the latter. And we've been around for 15 years. We triggered the

move in 2016, which is basically when we said, okay, everyone pledged that if enough of us said we would come, we'd come. And a lot of us move before then, but basically now we're seeing these waves of people who committed over time who are now moving into this state.

We just had PorcFest a couple of weeks ago. That's our Porcupine Freedom Festival. It's the one we do up in the White Mountains. And that was a huge success. We had more than 1,000 people. A lot of the people that appear on your show, including Dave Smith, came out. That was really fun. He was there for the Wednesday, did a great podcast, and then did some stand-up in the evening. One of the really cool things, I think for me, from PorcFest was just how many new people that there were. There are a lot of us who are old timers at this stage, and we're sort of old hat, and you get sort of jaded, I guess, a little bit. And so it was really, I think for me, very reinvigorating just to see hundreds, if not close to a thousand, just new people who were at PorcFest for the first time, lots and lots of families, lots of little kids. I've been in New Hampshire now for 11 years. I've been part of the Free State Project for 14, 15 years. So I'm starting to see the little babies are starting to graduate. And so you sort of see that whole time lapse and that whole growth of what we're doing here.

So in terms of, we're still getting people to sign up. I think they have close to 24,000 or 25,000 people have signed up now. We have call parties where we're really trying to get people excited to move out. Last weekend, we actually had a new mover come up from Philly. There were probably 15 of us who helped him move in. It took 48 minutes to unload a really big U-Haul. So there's that sort of sense of community. On Tuesday night, I guess last night, we had our new mover party, which we do once a month. There were probably close to 100 people. There were like eight new movers. And we're seeing that almost every month now. So I feel like, one, I don't have to do the day-to-day anymore, so yay me, but I just love being able to sort of see it grow.

And for me personally, I'm at the stage where I'm living liberty. I think your life is very similar to this as well, Tom, in the sense that professionally you are spreading the message of liberty, but it's just part of who you are. And so for me, I'm sort of moving towards that model where it's just part of who I am, and I get to work on all these different projects, but I'm also able to launch — I just launched my own blog and website, and I'm doing some local-access TV, and we just launched our podcast today, actually. [laughing] And I've been reading all your e-letters on the right way to do it, so I'm hoping it's all going to come together.

WOODS: Well, this is all great stuff to hear. What about the — you have the Liberty Forum every year?

GERICKE: Yes. So that one is our more winter events, and that's a little fancier and a little more in a hotel. And as you know, we have an open invitation to you. Anytime you want to come keynote that, we would love to have you. I did hear that Bob is moving to Massachusetts, right, so —

WOODS: He is. He's living — I'm not sure I'm supposed to say the exact town, but let's just say he could get to New Hampshire without having to spend a whole lot of time on an airplane. I mean, he could drive there.

GERICKE: Right, that's kind of what I heard too, so I'm excited about that. And of course, we'll try to slowly woo him our way. But yeah, we do that one in the winter. I'm not 100% sure about the dates yet, but it's typically either the last week in January or the first week in

February, because we believe in full disclosure, so it's good for people to kind of feel out the winters, which aren't as awful as people say. It's kind of similar to when people live in hot places, they run from air conditioning to air conditioning, so here in the winter, we go from a heated space to a heated space. You know, you're not generally freezing to death. So yeah, we'll have Liberty Forum, will be coming up sometime early in the winter. Of course, next year is big election year, so we already have all the presidential candidates certainly on the Democratic side coming. We also had Bill Weld, of all people, at PorcFest. That was sort of weird and interesting, and a bit of a snooze, but you didn't hear that from me. So, yeah, we have our events, and of course, we'll have PorcFest again next year.

But then also, it's just really the community and the crew. There's the people out on the Freecast. They do their festival in the fall, so that's always a lot of fun. So if people are interested, they should just generally go to FSP.org and take a look. I hate to beg for money, but I will throw it out there: we are always looking for donations, so if someone wants to throw some bucks towards the only living libertarian experiment in the world, we would happily take that as well.

WOODS: Well, I remember when I did keynote, the Liberty Forum some time ago, I donated money on the spot, because I guess one speaker after another was getting caught up in the wave of donating, so I said, all right, I'll donate. So I ended up giving some dough. But I would also —

GERICKE: Oh, you were very generous. Thank you. Yes.

WOODS: Oh, thank you. Thank you. Well, I just remember just having a great time at that event, so for anybody who's in New England, you really need to think about that Liberty Forum, because you're going to meet a lot of great people. It's packed. A lot of really interesting people. In fact, that was really the time that I learned about Bitcoin, that somebody really sat me down and walked me through it and said this is why it matters and this is why it's interesting. That was at the Liberty Forum. So, so much good to say about it, so you definitely want to take a look. So you have a new podcast you're co-hosting, *Told You So*. What's that about?

GERICKE: So we dropped our first episode today. It's basically me and my neighbor, who's also a Free Stater who moved out here about 11 years ago, I guess, as well. He's one of our big success stories, because he's gotten his mom and dad to move from Connecticut, as well as his sister and her husband and their little baby. So I was like, you go, you could just keep bringing the people in. He's a communications and marketing expert. He worked on the Gary Johnson campaign, has certainly run for office, has been a delegate. I myself, also — I mean, we run as Republicans just because we want to get elected. But great guy.

We have a bunch of episodes in the bag so far. I mean, it's about freedom. It's about living your values. It's about food. We're both big foodies, fitness people. Keto diet. I know, some people are like, not Keto, but you know, it is what it is. And yeah, I guess we're still slightly figuring out what it's going to look like, but I think for both of us, our goal is to make it quite persuasive. I could see it appealing to more Millennials who are maybe questioning and curious about stuff and sort of trying to capture maybe that kind of market. So it's not just for sort of hardcore libertarians, although it kind of is because that's how we are.

And then we kind of wanted to be a little bit about shared values as opposed to just politics or teams, especially in politics. I mean, it's so much the war rhetoric and the "this party against that party." And having run as a Republican twice now for Senate, so I'm more involved with the Republican Party than I ordinarily would be. And so I see that structure a lot. And I'm just like, this doesn't work, like we've got to run things from a place of principle. You can't just be for or against something because the other side is. This is how we get into the mess we're pretty much in.

So we'll see how it goes. I'm definitely excited about it. I think it's kind of cool. There are not that many woman voices out there. I think that I have something to add. I think I've sort of grown into this role, and I'm just super excited to see it take off. And hopefully people will support it. They can sign up at ToldMeSo.media. We have a Facebook website and literally launched it this week. I just sent out an invitation this morning, and I think we have over 200 people who've already signed up, so I think people kind of dig it. So we'll start, and we'll see where it goes.

WOODS: I think you said ToldMeSo.media. You want ToldYouSo.media. The other one doesn't work.

GERICKE: Yes, ToldYouSo.media.

WOODS: Okay, so we've got that. I just checked it. All right, so I'll link to that. We'll have the Free State Project site up. I'll put all that stuff at TomWoods.com/1443 so people can get access to all that. Well, I appreciate the update. Glad to know that good things continue to happen. I would love to get back there one of these days. We'll see what the future holds. It's a slight concern that when the event is held in the winter that I could get stuck there.

GERICKE: [laughing] Yeah.

WOODS: You know? Eh, but that's all right. I mean, look, I'll roll the dice for the good folks there.

GERICKE: All right, or come to PorcFest one year or maybe the Freecoast festivals. That's not directly affiliated with the Free State Project, but we're all hoeing in the same direction, if that's the expression [laughing].

WOODS: Sure, sure. Yeah, well, I have considered stopping by at PorcFest. I don't think I'd want to stay the whole time, but I've considered stopping by. So maybe next year, but that's on the down-low until I can be sure about it. All right, anyway, thanks again, Carla.

GERICKE: Okay, thanks so much, Tom.