

## ACLU SETTLES LAWSUIT ON BEHALF OF U.S. CITIZEN UNLAWFULLY DETAINED AT ACI AS A DEPORTABLE “ALIEN”

In a case that led to a groundbreaking court decision limiting the power of immigration officials, the ACLU has settled a lawsuit it filed in 2012 on behalf of Providence resident and United States citizen Ada Morales, who was twice unlawfully held at the ACI because Immigration and Customs Enforcement (ICE) officials erroneously deemed her to be a deportable “alien.”



Morales was detained at the ACI on the basis of an ICE-issued “immigration detainer,” a form that asked officials to hold a person for up to 48 hours while they investigated the person’s immigration status. Morales’ lawsuit led to a landmark court decision finding that the Fourth Amendment does not permit the government to hold someone in prison based on ICE detainers in order to investigate their immigration status; instead, an arrest and detention must be based on probable cause, not mere investigative interest. The suit also led to the adoption of a policy by the R.I. Department of Corrections that it would honor immigration detainers only if they are backed by a court order.

Under the settlement agreement, federal officials have agreed to pay Morales \$35,000 in damages. Officials also issued her an assurance letter stating that ICE’s database shows she is not subject to arrest for immigration purposes. In addition, since Morales sued the agency, ICE has acknowledged that compliance with these “hold” requests is purely voluntary, and directed its officers to stop issuing detainers against individuals merely because they were born outside the United States and do not appear in federal immigration databases.

Morales, who was born in Guatemala and became a naturalized United States citizen in 1995, was taken into custody on a minor criminal charge in May 2009. While she was being held at the ACI, ICE officials lodged an “immigration detainer” against her – assuming, based on her place of birth and their inability to find her records in federal databases, that she was a deportable non-citizen. In fact, the government failed to identify Morales as a U.S. citizen because of the government’s own flawed databases and ICE’s incomplete investigation. The detention, the ACLU lawsuit successfully alleged, violated her constitutional right to freedom from unreasonable searches and seizures. In light of the federal government’s increased immigration enforcement efforts, this case serves as a stark reminder of the potential consequences that can flow from those troubling efforts.

### LOOK INSIDE

Cranston Panhandling Ordinance On Hold	2
Anti-Medical Marijuana Ordinance Halted	3
Pawtucket Sued for Refusing to Release Police Misconduct Records	4
RIDE Will Protect Trans Students	4
General Assembly Wrap-Up	6-10

## FROM THE DESK OF THE EXECUTIVE DIRECTOR

This edition of our newsletter is chock full of news and updates, including a wrap-up of this year's drawn-out legislative session. And while there are some losses to report, there were also a large number of wins. Either way, I want take a minute to acknowledge those of you who took the time to contact your legislators on one or more of our critical civil liberties bills. That outreach really does make a difference, and I am deeply grateful.

On another positive note – and despite all that continues to undermine civil liberties at the federal level – we had a number of important court victories since our last newsletter. In response to our lawsuit, a judge issued a temporary restraining order against (yet another) anti-panhandling ordinance. We also won a temporary injunction against a Smithfield zoning ordinance that sought to undermine the rights of medical marijuana patients. Also notable is the close of our landmark lawsuit on behalf of a U.S. citizen unlawfully detained at the ACI as a deportable “alien.”

It's this work at the state level – work that your support makes possible – that keeps the government in check, and enables us to make progress in the face of unprecedented threats to civil liberties. Thank you all.

– Steven Brown

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## JUDGE ISSUES RESTRAINING ORDER AGAINST CRANSTON ANTI-PANHANDLING ORDINANCE

In an important preliminary victory for First Amendment rights, U.S. District Court Chief Judge William Smith has issued a temporary restraining order against the City of Cranston's latest anti-panhandling ordinance. The ordinance, enacted in February 2017 by a 5-4 vote of the City Council, bars any person from entering a roadway “for the purpose of distributing anything to the occupant of any vehicle or for the purpose of receiving anything from the occupant of any vehicle.” The suit, filed by ACLU of RI volunteer attorney



Lynette Labinger, argues that the ordinance violates the First Amendment right of individuals to solicit donations and to distribute literature on Cranston roadways.

In April 2016, the ACLU favorably settled a lawsuit against Cranston over a similar ordinance. In that settlement, the City acknowledged that the ordinance violated the First Amendment. The current ordinance makes several cosmetic revisions to the original in an attempt – unsuccessfully, the ACLU lawsuit argues – to pass constitutional muster.

Plaintiffs in the suit are the Rhode Island Homeless Advocacy Project; two Cranston residents – Karen Rosenberg and Deborah Flitman – who are members of the Cranston Action Network and would like to engage in leafleting from traffic islands, but are barred from doing so under the ordinance; and Francis White, Jr., a disabled and formerly homeless resident of Providence, who often has insufficient income to last to the end of the month and relies upon panhandling for additional support.

Although City officials claim the ordinance was adopted as a “public safety” measure, and cited the number of car accidents at various city intersections, Judge Smith found that, “[s]imply put, the [ordinance’s] legislative findings are long on conclusory observation but short on meaningful data connecting the chosen solution to an actual problem. Further, Defendants also have failed to explain how activities not prohibited by the Ordinance (hand-to-hand exchanges with individuals on sidewalks or large groups of people yelling with signs on a traffic median, for example) are somehow less distracting than the activities prohibited.” The ACLU is awaiting scheduling of further proceedings in the lawsuit while the restraining order remains in effect.



ACLU OBTAINS COURT RULING AGAINST SMITHFIELD ANTI-MEDICAL MARIJUANA ORDINANCE

Medical marijuana patients in the state achieved an important victory in September when R.I. Superior Court Judge Richard Licht issued a preliminary injunction against a Smithfield ordinance that the ACLU argued was an attempt to undermine the state’s medical marijuana law. The law imposed significant burdens on patients’ access to treatment in conflict with state law. The decision establishes a significant precedent because a number of other municipalities have adopted, or are considering adopting, similar troubling restrictions on the rights of medical marijuana patients.



Plaintiff and Attorneys in Smithfield Lawsuit

The lawsuit, filed by ACLU of RI volunteer attorneys C. Alexander Chiulli, John Meara and Matthew Plain from the law firm of Barton Gilman, argued that the ordinance unlawfully restricted access to treatment and harmed patients’ privacy rights in various ways.

disclose their identity to a number of municipal authorities in order to grow marijuana.

The ordinance limits the growing of medical marijuana to two mature plants and two seedlings, and only at a patient’s primary residence, even though state law specifically allows for the cultivation of 12 mature plants and outlines where medical marijuana can be grown. The ordinance also bars caregivers from growing medical marijuana anywhere in the town, and requires patients to

In granting the injunction, the Court said that the ACLU had demonstrated that enforcement of the ordinance would cause “irreparable harm” by leading to the “unwarranted disclosure of Plaintiffs’ status as medical marijuana cardholders” contrary to state law, and that the hardships to the plaintiffs in terms of their “increased difficulty or inability to either grow or obtain their medicine” weighed in favor of issuing an injunction.

ACLU SUES PAWTUCKET POLICE OVER FAILURE TO TURN OVER REPORTS OF ALLEGED POLICE MISCONDUCT

In a case that will help determine the scope of the public’s ability to monitor police misbehavior, the ACLU has sued the Pawtucket Police Department for failing to release certain reports of alleged police officer misconduct generated by its Internal Affairs Division (IAD). The suit argues that this refusal to release the records is in clear violation of the state’s Access to Public Records Act (APRA).

misconduct, which it released to RIAP in redacted form, and those initiated internally, which it advised RIAP would not be made available at all. The lawsuit argues that there is “no meaningful distinction between internal affairs reports generated as a result of citizen complaints and internal affairs reports generated without an underlying citizen complaint.”

The lawsuit, filed in R.I. Superior Court by ACLU of RI cooperating attorneys James D. Cullen and R. Kelly Sheridan, is on behalf of Dimitri Lyssikatos, a member of the Rhode Island Accountability Project (RIAP), a non-partisan organization that promotes transparency and accountability in local government and state law enforcement. As part of its work, RIAP maintains a publicly available database of reports generated by the IADs of police departments across the state, information it routinely obtains through APRA requests.

In two major APRA lawsuits filed in past years by the ACLU over access to records of police complaints, the R.I. Supreme Court has ruled that the public is entitled to final reports of investigations of police misconduct. Those rulings make no distinction as to whether the investigations were prompted by citizens or the police department itself. The Pawtucket Police Department’s position to the contrary is based upon questionable advice issued by the Attorney General’s office.

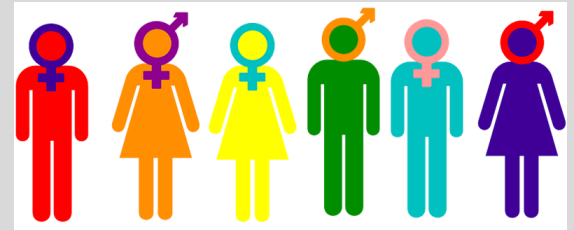
In refusing to release the records, the police department distinguished between citizen-filed complaints of

The current lawsuit seeks to overturn that premise as unwarranted. The suit is part of an ongoing ACLU effort to promote open and transparent government through vigorous enforcement of the Access to Public Records Act.

## RI DEPT. OF ED AGREES TO REQUIRE SCHOOL DISTRICTS TO ADOPT POLICIES THAT PROTECT TRANS STUDENTS

Responding to a formal petition filed by the ACLU and nine other organizations, state Commissioner of Education Ken Wagner has agreed to promulgate a regulation requiring all school districts in the state to adopt detailed policies protecting the civil rights of transgender and gender non-conforming students. Citing the unique discrimination faced by transgender and gender non-conforming students and the failure of many Rhode Island school districts to have policies in place tackling their concerns, the organizations had submitted the petition in September in order to require school officials to better address the specific needs of this vulnerable group.

In 2016, partly in response to federal guidance on the issue that has since been repealed by President Trump, the state Department of Education (RIDE) released a detailed model policy that aimed to address the specific needs of trans students and ensure schools' compliance with civil rights laws. The model policy highlighted many issues facing these students, including confidentiality, access to facilities, participation in school programs, and dress codes. However, the RIDE policy was just a model, and as such, schools were not mandated to adopt it. Instead, a recent report from the ACLU of RI found that more than 25% of RI public schools have no comprehensive policy in place to protect transgender and gender non-conforming students. The Commissioner's action will require every school district to have a detailed formal policy based on RIDE's model guidance.



## NEWS BRIEFS

### ACLU URGES POLICE CHIEFS TO ADOPT STRICTER POLICIES FOR POLICE BODY CAMERAS

Noting the tragic shooting by police of an Australian woman after she called 911 and the subsequent controversy that erupted over the failure of Minneapolis police to activate their body cameras while investigating her call, the ACLU of RI sent letters to the Newport and Providence police departments urging them to revise and



strengthen their existing body camera policies so that they promote full transparency in policing. The letters are part of an ongoing ACLU of RI effort to advocate for clear standards regulating the use of body cameras by law enforcement. In addition to calling for standards that limit individual decision-making about camera activation, the ACLU has also argued for clear guidelines about public access to camera footage, noting that the benefit of transparency is lost when police departments can deny access to footage in serious use-of-force situations. Currently, Newport and Providence are the only two police departments in the state that have piloted body camera programs.

### “TIME FOR ACTION, NOT WORDS” ON DACA, SAY 17 IMMIGRANT RIGHTS ORGANIZATIONS TO GOVERNMENT OFFICIALS

Responding to President Trump's decimation of DACA – the Obama program that provided legal status to children brought to the country unlawfully by their parents – the ACLU and a diverse array of sixteen other RI immigrant advocacy organizations sent letters to all state legislators and municipal leaders calling on them to take action to help the state's DACA recipients.

The letter to legislators urged them to pass bills that would provide some protection to DACA recipients while the program remains in limbo. That request will be reiterated in January when the new session starts. A separate letter to municipal leaders called on them to pass comprehensive ordinances that would limit cooperation and collaboration with immigration officials. Earlier this year, the ACLU of Rhode Island shared with all municipalities a model ordinance that would do just that, and there is a concerted effort in South Kingstown and elsewhere to enact it. Although the state's Congressional delegation unanimously supports passage of legislation to codify the DACA program into law, the fate of such a proposal remains unclear, prompting the call for state action.



## LEGAL BRIEFS

### ACLU Asks Court to Reject Claim that ACI Lifers Cannot Challenge Rights Violations

The ACLU of RI filed a brief asking the Superior Court to reject a claim made by the R.I. Department of Corrections (DOC) that inmates serving life sentences at the ACI have no right to sue for violations of their civil rights. The suit at issue, filed by Richard Paiva, who is serving a life sentence at the ACI, challenges conditions of his confinement as a violation of his constitutional rights. Without addressing the merits of Paiva's claims, the DOC asked the court to dismiss the lawsuit, citing the state's "civil death" statute as barring him from bringing any lawsuit in the first place. The "civil death" law, enacted more than a century ago, declares people sentenced to life in prison to be "dead" for legal purposes, even though most of them are eligible for parole after 20 years. Rhode Island remains one of only three states with a law like this on the books. The court brief, filed by cooperating attorney Sonja Deyoe, argues that the "civil death" law's ban on Paiva's access to the court contravenes numerous constitutional rights.

### ACLU Sues Third RI Municipality Over Unlawful Gun Seizure by Law Enforcement

The ACLU has sued the Bristol Police Department over its refusal to return to its owners a firearm that the agency seized more than a year ago. The suit, filed by ACLU of RI cooperating attorneys Thomas Lyons and Rhiannon Huffman, is on behalf of two parents who inherited their son's firearm collection after he tragically took his own life, but to whom the police refuse to return one of the firearms. This is the fourth time in five years that the ACLU has sued over a law enforcement agency's practice of seizing lawfully owned firearms and then refusing to return them without court intervention. Last year, a federal judge issued a favorable ruling in one of those cases, though the suit remains pending as the city works on adoption of a policy that comports with constitutional standards.

### ACLU Back to Court on UHIP

Calling the situation "intolerable" one year after the disastrous rollout of UHIP, the ACLU has gone back into court to seek additional judicial remedies to ensure the timely provision of food stamp assistance to needy families. The Department of Human Services is not only failing to meet court-ordered benchmarks for providing this assistance to eligible families, the agency is even unable to provide an accurate report on its level of compliance with those benchmarks – all in violation of a federal court order issued seven months ago.

### Charges Dismissed Against Narragansett Residents Under Unlawful Housing Ordinance

RI Municipal Court Judge John DeCubellis dismissed the charges against a group of Narragansett residents, landlords and businesses for violating a Town ordinance that bars more than four unrelated people from living together. In his decision, the judge agreed that – as argued earlier this year by ACLU of RI cooperating attorney H. Jefferson Melish – the ordinance violated plaintiffs' due process and equal protection rights. In 1994, the R.I. Superior Court struck down as unconstitutional a nearly identical Narragansett ordinance.



### Juvenile Detention Center Fulfills Settlement with ACLU; Landmark Case Closed

A landmark Rhode Island case over the civil rights of incarcerated youth has come to a close. At the behest of the ACLU and the state, a federal judge has dismissed a lawsuit against the R.I. Training School for Youth. In 1971, when the suit was originally filed, teen prisoners did not receive adequate food, schooling, or medical care, and the institution provided no mental health care or treatment. In 1973, the plaintiffs entered into a consent decree, revised over a number of years, that sought to address those and many other issues. In his order closing the case, Judge Smith found that the state had substantially complied with the elements of the decree. ACLU of Rhode Island volunteer attorney John W. Dineen served as local counsel in the lawsuit with the ACLU's National Prison Project.

### ACLU and RI Legal Services File Civil Rights Complaint Against RIDLT

ACLU volunteer attorney Jennifer Doucleff and R.I. Legal Services attorney Veronika Kot filed a formal complaint with the U.S. Department of Labor (USDOL) against the state Department of Labor and Training (RIDLT) for failing to provide non-English speaking residents with meaningful access to the agency's critical unemployment insurance (UI) services. Agencies receiving federal funding are required by law to provide access to programs and services for individuals with limited English proficiency. The complaint comes nearly four years after the RIDLT entered into a Conciliation Agreement with USDOL for an earlier breach of its obligations regarding the nondiscriminatory provision of UI services.

## LEGISLATIVE UPDATE

The 2017 Legislative Session was an interesting one, to say the least. Between January and June, hundreds of bills were introduced and passed by both the House and Senate – some good, such as automatic voter registration and protection for student journalists, and some very bad, such as police access to a state health department prescription database.

Then, in June, on what would have been the last day of session, the House abruptly recessed due to an impasse in the Senate, leaving hundreds of bills in limbo. On September 19th, the General Assembly reconvened and many of the bills left pending in June were finally taken up for votes. This one-day session saw some more good legislation pass, including a package of criminal justice reforms and open records legislation aimed at the 38 Studios debacle. Read more about some significant 2017 legislation on which the ACLU lobbied below.

### *Freedom of Speech*

#### **Student Free Press (H-5550, S-600)**

##### **PASSED**

The passage of this legislation, sponsored by Sen. Gayle Goldin and Rep. Jeremiah O'Grady, marked an important free speech victory for students. The bill recognizes the importance of encouraging student journalism by guaranteeing students certain basic rights to freedom of the press. Signed into law by the Governor, the bill reverses an unfortunate U.S. Supreme Court decision that gave school officials broad discretion to censor school newspapers.

#### **“Revenge Porn” (H-5304, S-401)**

##### **DIED**

This misnomered legislation from the Attorney General would make it a crime to electronically transmit nude or sexually explicit images without the person's consent, regardless of the sender's intent. The Media Coalition, the RI Press Association, and the ACLU opposed the bill since it could criminalize publishing, among other newsworthy items, some of the photos from Abu Ghraib. In 2016 Governor Raimondo vetoed the bill on constitutional grounds, but this year supported the bill with some minor revisions that failed to address the ACLU's First Amendment concerns. Fortunately, the bill died in the Senate after passing the House.

#### **Anti-Protester Bill (H-5690)**

##### **DIED**



One of the most outrageous bills the ACLU saw introduced this year, based on a “model” bill introduced in a dozen other states, gave drivers exercising “due care” immunity from liability for injuring protesters

blocking traffic. The implications of the bill, which died in committee, took on even more significance after the hit-and-run death of a protester in Charlottesville.

### *Due Process*

#### **Right to Counsel (H-5187, S-71)**

##### **PASSED**

The ACLU joined with the Public Defender and the RI Coalition for the Homeless to support legislation requiring municipal courts to provide free attorneys to indigent defendants charged with ordinance violations that could result in imprisonment. During the hearings, all those who testified noted that the bill merely codified what the Constitution already requires, but which some municipalities were ignoring. The legislation successfully passed and was signed into law by the Governor.

#### **Traffic Stop “Education” (H-5055)**

##### **DIED**

This legislation sought to integrate into the current driver's education curriculum the responsibilities of a driver during a traffic stop. That concept raised concerns for the ACLU and community advocates like the Human Rights Commission, RI for Community and Justice, and Jobs for Justice, who argued that in addition to learning about their responsibilities, drivers should be taught their *rights* during a traffic stop. However, House bill sponsor Joseph McNamara refused to accept any amendments to the bill. Fortunately, the bill died in the Senate after advocates called for its amendment or defeat.

#### **Vehicle Registration Suspension (H-6213, S-965)**

##### **PASSED**

Over objections from the ACLU and other organizations advocating for the poor, the General Assembly passed legislation, introduced by Rep. Christopher Blazejewski and Sen. Maryellen Goodwin, that expands the state's ability to deny vehicle registration to individuals who have outstanding unpaid interest or penalties on fines owed to municipalities. The ACLU pointed out that losing one's license leads to hardships and loss of employment, all of which simply prolong and worsen the person's financial issues that led to their failure to pay the fines in the first place. However, legislators were not swayed and passed the bills overwhelmingly.

*Criminal Justice*

**Justice Reinvestment Package**

**PASSED**

After a great deal of political maneuvering, the General Assembly passed a package of bills aimed at improving the criminal justice system. The bills sprang from the Governor's Justice Reinvestment Working Group, and followed nearly a year's worth of collaborative work between government officials and community advocates. Last year, the bills passed the Senate unanimously but were killed in the House. This year, the House agreed to pass the package, but only in significantly watered down form. While the passage of the bills represents a modest step forward in criminal justice reform, the ACLU is hopeful that it will mark the beginning, not the end, of criminal justice reform by the legislature.

**Ban on Juvenile Life Without Parole (S-237)**

**DIED**

The U.S. Supreme Court has noted in the context of criminal sentencing that adolescence is marked by “transient rashness, proclivity for risk, and inability to assess consequences.” Yet many who commit their crimes as children are viewed as incapable of rehabilitation, and incarcerated long into their adulthood.



Under this ACLU-promoted legislation, juveniles sentenced as adults would come before the parole board after fifteen years,

regardless of the length of their sentence, giving them the chance to prove their fitness to return to society. The bill, sponsored by Senator Harold Metts, passed the Senate but, despite a strong lobbying push, died in the House.

**Juvenile Interrogation (S-427)**

**DIED**

In a similar vein, the ACLU supported legislation sponsored by Sen. William Conley, Jr. that would generally require that a minor have a parent or guardian present during questioning by law enforcement. The Senate passed this legislation, but House Judiciary Committee took no action on it.

*Voting Rights*

**Automatic Voter Registration (H-5702)**

**PASSED**

Automatic voter registration is an important step in making the voter registration process easier and more accessible. It allows individuals who go to the Department of Motor Vehicles to obtain or renew a driver's license document to easily register to vote if they certify that they are eligible to do so. Rhode Island became the ninth state to authorize this practice, when Gov. Raimondo signed the bill into law in July.



**Presidential Tax Returns (H-5400)**

**DIED**

This legislation is a direct response to then-Presidential candidate Donald Trump's refusal to release his tax records during the campaign. By requiring Presidential and Vice-Presidential candidates to disclose their five most recent federal tax returns in order to qualify for the ballot, this bill would set a dangerous precedent and impose additional qualifications, beyond those contained in the Constitution, on candidates to qualify for the ballot. The bill did not move out of committee.

*Open Government*

**Open Meetings (S-381, H-6323)**

**PASSED**

A 2016 ACLU report took a close look at the compliance – or lack thereof – of agencies in regards to the Open Meetings Act requirement that they publicly post their agendas at least 48 hours in advance of the date of their meetings. Our report found many violations in this regard. This enacted legislation addresses one of our main recommendations: excluding weekends and holidays from the 48 hours required to provide notice.

**38 Studios Records (H-5347, S-932)**

**PASSED**

This important legislation makes public any records generated or obtained by the State Police or Attorney General in their investigation of the 38 Studios scandal. The ACLU assisted sponsor Rep. Charlene Lima in drafting the bill. The bill passed both Houses, but even before being sent to the Governor for her signature, the Attorney General obtained a restraining order against it. This rather extraordinary order remains in effect, and the ACLU plans to assist the Governor in contesting it.



## *Technological Privacy*

### **Automated License Plate Readers (H-5531)**

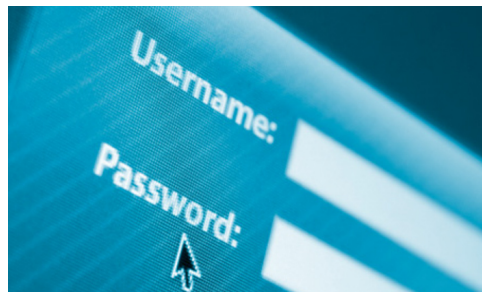
#### **DIED**

Legislation introduced by Representative Robert Jacquard would sanction the installation of a highway surveillance system of automated license plate readers (ALPRs). They are capable of capturing car images at high speeds and across several lanes of traffic, and could be erected throughout the state's highways in an attempt to catch uninsured motorists. ALPRs capture not only an individual's license plate, but record the time and GPS location of every car on the road. Unregulated, this data becomes a historical record of motorists' movements, allowing for a significant invasion of every drivers' privacy. The bill was opposed by the ACLU, the State Police, the DMV, insurance companies and others. After passing the House, the bill made it to the Senate floor, but the controversy it generated left it on the calendar without a vote.

### **Electronic Privacy Protections**

#### **DIED**

A number of bills that would have protected technological privacy died this session. They included legislation to regulate and limit the use of cell-site simulators, or "stingrays" (H-5393), which police can



use to capture cell phone location information of people in the vicinity; a bill to restrict the use of drones by law enforcement (H-5521, S-172);

legislation to require Internet service providers to get customers' permission before selling sensitive consumer data, such as browsing history (H-6086, H-6087); and an ACLU-sponsored bill to restrict school officials from remotely accessing school-owned computers loaned for at-home use by students (H-5682, S-434). On this latter bill, an ACLU report issued in June showed that many school districts reserved the right to engage in such invasions of privacy.

On a more positive note, no action was taken on a mischievous Attorney General bill (H-5518) that would have severely weakened a law enacted just last year that requires law enforcement to obtain a warrant before requesting cell phone location information from telecommunications providers. Unsurprisingly, the AG had opposed that law when it was enacted last year.

## *Rights of the Mentally Ill*

### **Involuntary Commitment (S-492, H-5278)**

#### **DIED**

This legislation, opposed by the ACLU, would have allowed Advanced Practice Registered Nurses (APRNs) to attest to a patient's mental health condition and participate in certifying patients for mandated outpatient treatment, something that only doctors can do presently. While APRNs play a significant role in the mental health community, ACLU Board member Heather Burbach argued that recommendations for such a weighty deprivation of liberty should stay in the hands of physicians. Although the legislation passed the Senate without addressing the ACLU's concerns, no action was taken on the bill in the House.

### **Animal Hoarding (H-5882, S-390)**

#### **PASSED**

As originally introduced, this legislation amended the animal cruelty laws to add "hoarding" to the list of actions subject to that law's five year prison sentence, and would have further required persons found guilty to undergo a mental evaluation. The ACLU and several mental health organizations voiced their concern about harshly criminalizing behavior that the bill itself acknowledged was influenced by mental illness. A much-revised version of the bill addressing many of these concerns was enacted.

## *Medical Privacy*

### **Police Access to Prescription Drug Information (H-5469, S-656)**

#### **PASSED**

This legislation, sponsored for the Attorney General, opens up the prescription information of thousands of Rhode Islanders for scrutiny by police without judicial oversight. Every person prescribed any controlled substance, including anti-anxiety medication, painkillers, and cough syrup have their medical information recorded within a Department of Health database. This troubling bill



eliminated a requirement for police to obtain a warrant before being able to access the database. Despite strong opposition from the ACLU and over 20 Rhode Island medical, mental health and other organizations, the Governor signed the bill into law.

*War on Drugs*

**Legalizing Marijuana (H-5555, S-420)**

**DIED**

Numerous organizations and professionals came forward in support of this legislation seeking to regulate and tax marijuana similarly to what states like Colorado have done. Regulating the sale and possession of marijuana as a medical and public health issue and for consumer protection rather than through ineffective, inappropriate and punitive criminal measures is a sensible approach whose time has come.

While the legislation did not pass, the General Assembly approved a commission to study the potential legalization of marijuana in Rhode Island during the next year.



*Prisoners' Rights*

**Prisoners' Child Support Orders**

(H-5553, S-406)

**PASSED**

This enacted legislation that the ACLU worked on will establish a formal process to take into consideration a person's incarcerated status for purposes of modifying child support orders. This bill will help ensure that incarcerated non-custodial parents will no longer have to go through the existing burdensome process for modifying child support orders, and that their incarceration will not be treated as "voluntary unemployment" which puts them in further debt and continues the cycle of poverty and incarceration.

*Immigration*

**Drivers' Licenses (H-5684, S-348)**

**VETOED**

The Governor heeded the request of twenty-four organizations, including the ACLU, that called on her to veto an under-the-radar bill that the groups argued could seriously impact the ability of lawful permanent residents and visa holders to obtain drivers' licenses while residing in the state. While the bill was intended to make it easier for a small group of foreign residents to drive on their international licenses, the poorly worded legislation did much more harm than good. As this newsletter went to press, the Governor vetoed the bill and called for passage of a revised bill next year.

*Rights of Ex-Offenders*

**Criminal Record Background Checks**

**MIXED**

Every year numerous bills are introduced that seek to expand the use of criminal background checks in professions and volunteering opportunities. Rather than promote public safety, they further push ex-offenders outside of a positive community atmosphere. This legislative year was no different.

Among the bills passed were broadly worded ones allowing religious organizations and sketchily defined "youth serving agencies" to require all volunteers to undergo a criminal record check and bar those with a "disqualifying" record from participating. Neither of these bills require employers to consider the nature and gravity of the offense or the time that has passed since the offense. However, ACLU lobbying helped defeat a number of other similar bills, including ones seeking to disqualify individuals applying for contractor positions, personal assistant jobs, or to drive for a transportation network company such as Uber or Lyft.

**Homeless Sex Offenders**

**PASSED**

The General Assembly continued its attack on ex-offenders by enacting a series of bills making it much harder for sex offenders to reintegrate themselves into society, while doing nothing to improve public safety. H-5207 and S-55 require homeless shelters, upon pain of financial penalty, to report on a daily basis to the police



the presence of all sex offenders.

H-5724 and S-608 will require school departments to notify parents of students whose

school bus stop is within 1,000 feet of a Level III sex offender's residence.

Finally, H-5159 and S-807 bar any residential facilities on state property (i.e., Harrington Hall in Cranston) from providing more than 10% of its units to sex offenders. Homeless rights advocates unsuccessfully called on the Governor to veto this bill, which will likely render 50 people homeless once it takes effect.

## *Women's Rights*

### **Limit Shackling of Pregnant Prisoners (S-282, H-6358)**

#### **DIED**

State law generally prohibits shackling pregnant incarcerated women during transport to a medical facility. This legislation, sponsored by Sen. Erin Lynch Prata and Rep. Edith Ajello on behalf of the ACLU, sought to expand that law by prohibiting shackling pregnant women in their third trimester while they were being transported to or from court proceedings. The bill unanimously passed the Senate but died in House Judiciary Committee.



### **Ban on Gender Rating (H-5109, S-578)**

#### **DIED**

Women have historically been charged more for the same health insurance as men, solely because of their gender, leaving them less able to purchase vital health care coverage. This practice is generally illegal under the Affordable Care Act, but gaps in that Act allow the practice to continue in some situations, prompting this ACLU-supported bill which would completely ban such discrimination. With the additional threat of a possible repeal of the ACA by Congress, state action is even more important. Unfortunately, although the legislation, sponsored by Sen. Susan Sosnowski, passed the Senate, it died in House Corporations Committee.

## *Reproductive Rights*

### **Codifying Roe v. Wade**

#### **DIED**

As is true every year, numerous bills were introduced that focused on limiting or protecting a woman's reproductive rights. A pro-active bill, introduced by Representative Edith Ajello (H-5343) and Senator Gayle Goldin (S-274), would codify the principles of *Roe v. Wade* into law. The House bill included more than thirty co-sponsors, the most legislative support for abortion rights that the ACLU has seen in years. ACLU volunteer attorney Lynette Labinger testified in support of the legislation at committee hearings. Though the bills were held for further study, supporters are eager to press for passage of the legislation in 2018. On the other side, also not moving this year were two troubling pieces of legislation (H-5446 and H-5447) that would have enshrined into law the concept of "fetal personhood."

## OTHER KEY CIVIL LIBERTIES-RELATED BILLS THAT DIED IN COMMITTEE

### **Pro-Civil Liberties Bills**

- A bill promoting transparency and accountability in **police use of body cameras**, while also protecting legitimate privacy interests during police encounters.
- Legislation to establish a process for **in-person early voting**, thus increasing the ability of the public to exercise the franchise.
- Legislation to end the pernicious redistricting practice known as **prison gerrymandering**.
- A bill proposing comprehensive amendments to the state's **open records** law.

### **Anti-Civil Liberties Bills**

- An Attorney General bill that would have **subjected whistleblowers to felony penalties** for gaining "unauthorized access" to a computer.
- A bill that would have weakened a state law that protects **religious freedom** and restricts autopsies when it would infringe on the decedent's religious beliefs
- A **"blue lives matters"** bill that would have enhanced the penalties for crimes committed against a police officer by treating them as "hate crimes."
- Bills that would have banned or severely restricted **panhandling**.



## ORGANIZATIONAL NEWS



### BAN IGNORANCE, NOT BOOKS

Thanks to everyone who came out to the Weaver Library in East Providence on September 18<sup>th</sup> for “Ban Ignorance, Not Books” – an event co-sponsored with the library and Living Literature – to celebrate Banned Books Week 2017. Attendees were treated to theatrical readings of works by Neil Gaiman and Doris Kearns Goodwin, and a very lively Q&A session.

### LEGISLATIVE WRAP-UP & DESSERT EVENING

On August 1, 2017, a standing-room-only crowd showed up for our Legislative Wrap-Up and Dessert Evening. Special thanks to our evening's panelists: Senator Gayle L. Goldin (RI Senate, District 3), Justin Silverman, Executive Director of the NE First Amendment Coalition, and Ruth Feder, Executive Director of the Mental Health Association of RI. Thanks also to Knead Doughnuts, Coffee Exchange, Trinity Brewhouse, Au Bon Pain, and Blue State Coffee for donating delicious desserts and coffee!



### SCAVENGER HUNT

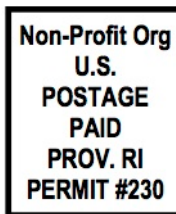
...for civil liberties in honor of Constitution Day 2017!

Congratulations to the winners of our 2017 Constitution Day Scavenger Hunt held on Saturday, September 16!

Interested in throwing a house party to raise funds for the ACLU of RI? Call the office for more info at (401) 831-7171.

American Civil Liberties Union  
Foundation of Rhode Island  
128 Dorrance Street, Suite 400  
Providence, RI 02903

*RETURN SERVICE REQUESTED*



## ONE PERSON'S TRASH IS THE ACLU'S TREASURE

Over the years, the ACLU of Rhode Island has received numerous donations from Eastside Marketplace's Friendship Fund. If you shop there, please take a minute to send us your receipts. When the ACLU returns these to Eastside Marketplace, we receive a check for 1% of the receipts redeemed. The more receipts we redeem, the more money we raise! Please mail your receipts to ACLU of RI, 128 Dorrance Street, Suite 400, Providence, RI 02903. Thank you!

### **TUNE IN TO OUR MONTHLY CABLE SHOW: "RIGHTS OF A FREE PEOPLE"**

**Playing in November & December:**

Parts 1 and 2 of

The ACLU of RI 2017 Annual Meeting

**Channel 13 (Channel 32 on Verizon FIOS)**

Tuesdays 10:00 pm

Fridays 3:30 pm

**Channel 18 (Channel 38 on Verizon FIOS),  
Providence and N. Providence**

Wednesdays 9:00 pm

### **IS OUR INFORMATION ABOUT YOU CORRECT?**

Please take a look at your address label - was the information listed correctly? If not, please contact our office so we can correct it:

[info@riaclu.org](mailto:info@riaclu.org) OR (401) 831-7171