

## AFFILIATE SUES OVER RIPTA BREACH OF PERSONAL DATA OF MORE THAN 20,000 STATE EMPLOYEES

Cooperating attorneys for the ACLU of RI have filed a lawsuit against the Rhode Island Public Transit Authority (“RIPTA”) and UnitedHealthcare New England (“UHC”) over an August 2021 data breach at RIPTA that compromised the Social Security numbers and other personal and health care information of thousands of individuals, including many with no connection to RIPTA.

To this day, it remains unclear how and why UHC provided RIPTA with the personal and healthcare information of non-RIPTA state employees, and why it took over four months for RIPTA to notify both their employees and other affected individuals that their information had been hacked.

The lawsuit, filed by ACLU of RI cooperating attorneys Peter Wasylyk and Carlin Phillips, is on behalf of two named plaintiffs – Alexandra Morelli, a URI employee, and Diane Cappalli, a since-retired RIPTA employee now living out of state – who are seeking to represent a class of more than 20,000 current and former state employees.

The class members, the lawsuit alleges, have been exposed to an “ongoing risk of fraud and identity theft which requires continued monitoring of their financial accounts, future financial footprints, their credit profiles, and their very identities.” In fact, since the breach, the suit claims that plaintiff Morelli has had to deal with unauthorized withdrawals from her bank account and fraudulent activities on some of her credit cards.



From left to right, Plaintiff Alexandra Morelli; Attorney Lynette Labinger; Attorney Peter Wasylyk; ACLU of RI Executive Director Steven Brown.

### LOOK INSIDE

Religious Freedom for Church Vindicated	2
2022 in Review	3-5
Police Body Cameras in Schools	5
Brown University Title IX Case Settled	6
Know Your Rights!	7

INSERT: 2022 LEGAL DOCKET

The lawsuit argues that both RIPTA and UHC did not adequately encrypt and secure the personal information from unauthorized access by third parties as required by federal standards, and were negligent in failing to properly maintain, protect, purge and safely destroy the data. The suit specifically alleges that these deficiencies violated two state laws designed to preserve healthcare confidentiality and protect against identity theft.

Among the troubling factual allegations in the complaint are the following: *(Story continued on page 6)*

## FROM THE DESK OF THE EXECUTIVE DIRECTOR

As much as the end of the year is about reflection on the previous months and the work that has been done, the nature of civil liberties necessitates that our consideration simultaneously be forward-thinking and proactive. This year, after a number of devastating Supreme Court decisions which eroded fundamental constitutional rights, it is particularly important that we approach the upcoming year prepared to sustain the fight that the ACLU of RI has been engaged in for over sixty years.

In fact, in 2023, we expect landmark SCOTUS decisions on issues like affirmative action, voting rights, LGBTQ+ rights, and more. It is tempting to spend this time lamenting the ways that SCOTUS now treats inalienable rights as disposable – and, to be transparent, I have done plenty of lamenting myself – but the start of the new year also reminds us that even as we contend with the harmful ramifications of the past year, attacks against civil liberties are unrelenting, and our vigilance is key to preventing further harm to our communities and our peers.

To this end, I hope you'll use the enclosed envelope to make a generous year-end tax-deductible contribution and help us continue to move forward.

Thank you as always for your support, and please accept my best wishes for the New Year.

-- Steven Brown

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## ACLU SECURES ZONING PERMIT FOR WICCAN CHURCH



Co-Pastors Gail McHugh and Darrell Moore

In a victory for religious freedom, the Town of Coventry has granted a zoning permit to the Horn and Cauldron, Church of the Earth, a small Wiccan church represented by the National ACLU and the ACLU of Rhode Island. The permit, approved in October, allows the church to continue holding religious services and activities on its property in the town. Earlier this year, the Coventry Zoning Board of Review initially declined to approve the permit. The decision to grant the Church's application averted a planned ACLU lawsuit and reaffirms that all faiths are entitled to religious freedom.

Wicca is a nature-based religion, and the Church's religious services, educational classes, and other faith-based activities focus on the relationship between the earth and the divine. After the church submitted its application for the zoning permit, the Coventry Planning Department and Planning Commission recommended approval, noting that the church met all requirements and that it "has been holding activities on the property many years and the Planning and Zoning department has not received any complaints since the church's founding." Nevertheless, during the public hearing, members of the Zoning Board claimed—without any evidence—that allowing the Church to continue operating would lead to parking problems and pose a fire hazard. In reality, the Church had demonstrated that there was more-than-adequate parking for visitors and had complied with all fire-safety laws.

The ACLU and ACLU of Rhode Island pointed out that a refusal to grant the permit would violate the Church's First Amendment rights, as well as its rights under the Religious Land Use and Institutionalized Persons Act, a federal law that provides heightened protections to houses of worship in zoning proceedings and ensures that governmental entities may not discriminate against any faith. Facing an ACLU lawsuit when the permit came up for a final decision in October, the Zoning Board reversed itself and approved the Church's application.

Gail McHugh, who founded the Church in 2009 with her husband, Darrell Moore, said: "We're relieved that the town approved our permit. We love our neighborhood, and the Church will continue to be a positive force in our community and world. We are immensely grateful to the ACLU and its legal team for supporting us and the rights of minority religions to exist and freely practice their faith."

# 2022 IN REVIEW

In spite of a U.S. Supreme Court session which, by issuing a spate of shattering decisions – including the overturning of *Roe v. Wade* – indicated that the erosion of fundamental civil liberties by that body is no longer a hypothetical fear, 2022 was also marked by a number of critical home state victories that affirmed many important constitutional rights for residents of the Ocean State. In addition to a docket of more than 30 cases, we successfully settled a number of lawsuits and lobbied on over 340 pieces of legislation during the 2022 General Assembly session. **Here is a small sampling of highlights from our work this year.**



Jennifer Stewart and Cherie Cruz successfully fought an ordinance restricting political yard signs.

## FIRST AMENDMENT

- On behalf of two political candidates, we successfully challenged a Pawtucket ordinance that strictly limited the posting of political signs on residential property.
- In a victory for religious freedom, the Town of Coventry granted a necessary zoning permit to a small Wiccan church whose request had initially been denied until the ACLU threatened suit. (See Page 2.)

## GENDER EQUALITY

- In a case in which we filed multiple “friend of the court” briefs, the U.S. Supreme Court declined to overturn the state’s Reproductive Privacy Act, which codified the tenets of *Roe v. Wade* into state law.
- Affiliate advocacy resulted in the adoption of policies by DCYF which enable parents to breastfeed or nurse their babies when they are in foster care.
- We filed suit on behalf of a newly hired employee at a professional cleaning service who was immediately terminated after the company learned she was pregnant.
- The U.S. Supreme Court declined to overturn a settlement agreement between Brown University and female student-athletes that reversed Brown’s attempt to cut five women’s teams from its athletics program.

RI COURTS

### US Supreme Court declines to hear appeal of R.I. abortion ruling

Catholics for Life and other plaintiffs had petitioned the high court to weigh in on whether fetuses are entitled to constitutional protections in light of *Roe v. Wade* being overturned.

By Edward Fitzpatrick Globe Staff. Updated October 11, 2022, 6:19 p.m.



## VOTING RIGHTS



- In response to the abrupt closing of several polling stations in low-income neighborhoods during the 2020 elections, the RI Board of Elections adopted ACLU-crafted regulations, in time for this year's elections, that establish clear standards before polling places can be relocated.

- After going to the U.S. Supreme Court in 2020 to allow Rhode Islanders to vote by mail ballot during the pandemic without the need for witness signatures, the ACLU was part of a coalition effort that led to passage this year of a comprehensive election reform bill that permanently removed that requirement.

- Following years of ACLU litigation and advocacy, the General Assembly favorably addressed for the first time the problem of “prison gerrymandering,” the redistricting practice which unjustly counts all detainees and prisoners at the ACI as being residents of Cranston rather than their home communities.

## PRIVACY

- We filed a class action lawsuit against RIPTA and United Healthcare over a data breach that compromised the personal and health care information of thousands of individuals. (See Page 1.)
- The Affiliate has been engaged in an ongoing campaign to curb the spread of so-called “automated license plate readers” and the surveillance state that they promote.
- We obtained legal relief for a graduate student who lost a job solely because she was a registered medical marijuana user.

## EQUAL PROTECTION OF THE LAWS

- A federal judge refused to dismiss an ACLU lawsuit alleging that a 13-year-old Black honors student in Pawtucket was unlawfully handcuffed and arrested by a school resource officer who wanted to “make an example” of her.
- A large coalition effort led to the passage of ACLU-drafted legislation allowing undocumented residents to obtain a drivers’ privilege card.
- The threat of ACLU litigation prompted a school district to reverse its refusal to provide a corrected diploma to a transgender alumna who had legally changed their name.
- A state court judge ruled in an ACLU case that the Providence School District had failed to provide legally required services to English Language Learners.



Governor McKee signs the “Drivers’ Licenses for All” legislation, allowing undocumented residents to obtain a drivers’ privilege card.

## OPEN GOVERNMENT

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- The Affiliate filed an open records lawsuit against the City of Providence when officials refused to release any documents related to its decision to bar a rapper from performing at a local night club.
- When a police officer fired for misconduct sued under a pseudonym to get his job back, ACLU intervention led to the release of the officer’s name.

**RI high court rules prison lifers have rights**

‘Civil death’ declared unconstitutional

Katie Mulvaney  
Providence Journal  
USA TODAY NETWORK

## CRIMINAL JUSTICE

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- The ACLU’s legal work led to the release of juvenile offenders serving lengthy sentences who had continued to be incarcerated despite a new law authorizing their early parole.
- After a decade-long battle by the Affiliate, the RI Supreme Court declared unconstitutional an archaic state law that classified individuals serving life sentences as “civilly dead,” barring them from suing to challenge violations of their rights.

## STUDENTS’ RIGHTS GROUPS CALL ON RHODE ISLAND SCHOOLS TO REJECT BODY CAMERAS FOR SCHOOL RESOURCE OFFICERS

Citing privacy issues and an interest in ensuring that routine school discipline is appropriately addressed internally and without the interference of law enforcement, nine local organizations that advocate for the interests of students sent a letter to all school superintendents in the state urging them not to equip school resource officers (SROs) with body cameras. The letter was sent following the recent promulgation of state regulations for the statewide body-worn camera (BWC) program, and the award of grants to municipalities for it, which leaves the issue of outfitting SROs with BWCs to the discretion of school districts.



While noting the interest the nine organizations have in “oversight, transparency, and accountability of policing systems,” the letter pointed out the unique implications for introducing BWCs to the school environment, particularly that “the closed environment in which school-based law enforcement interactions are contained, and the likelihood of these interactions occurring around numerous other students, puts students at risk of being recorded whenever an SRO has contact with their peers.”

The letter further expressed concern that the organizations could “easily envision BWC footage being used for the purposes of internal disciplinary procedures, with administrators viewing BWC footage with the intention of using it to punish students for minor behaviors which could and should be navigated outside of the scope of both police involvement and police surveillance technology.”

The letter, prepared by the ACLU of Rhode Island, was also signed by the Alliance of Rhode Island Southeast Asians for Education (ARISE), Parents Leading for Educational Equity (PLEE), Providence Student Union, Providence Youth Student Movement (PrYSM), Rhode Island Center for Justice, Rhode Island Kids Count, Youth in Action, and Young Voices.

## RIPTA DATA BREACH *(continued from page 1)*



Plaintiff Alexandra Morelli

- The data files provided by UHC to RIPTA included information not only for individuals insured under RIPTA's healthcare plan but also for approximately 17,000 non-RIPTA state employees. RIPTA later revealed that roughly 5,000 additional out-of-state residents had also had their information breached.

- RIPTA formally notified individuals that their personal information had been hacked 138 days after first discovering the breach, even though state law sets a 45-day deadline for such notification.

- The notification letter to affected individuals failed to specify whether the breached data was limited to general personal information, such as SSNs, or also included personal health information.

- When RIPTA posted a notice about the breach on its website in December 2021, it falsely stated that the hacked data files were limited to the "personal information of our health plan beneficiaries," when RIPTA also knew that the data of non-RIPTA employees had been hacked.

Plaintiff Alexandra Morelli noted the ongoing impact of the breach, saying: "In early January, I was notified about the data breach. Soon afterwards, my savings account was significantly compromised along with several of my credit cards. I spent countless hours working with local authorities, banks, and credit bureaus to try to protect my identity and personal information. To date, I am still monitoring all activities and have frozen several of my accounts. I am participating in this lawsuit in hopes to bring awareness to this issue and help others that may have been impacted or will be impacted by this data breach."

## BROWN UNIVERSITY AGREES TO PAY OVER \$1 MILLION IN SETTLEMENT OF TITLE IX CASE

U.S. District Court Chief Judge John McConnell, Jr. has approved a stipulated order in *Cohen v. Brown University*, the landmark Title IX case, requiring Brown University to pay \$1,175,000 for the attorneys' fees and litigation expenses incurred by the class of women student-athletes who challenged the school's elimination of women's teams from its varsity intercollegiate athletics program in June 2020.

Class-counsel Lynette Labinger, cooperating attorney for the ACLU of Rhode Island, said, "Countless women locally and nationally have benefitted from the efforts of the women at Brown who have championed this case over three decades through to its current conclusion. We hope that this substantial award, coming after the restoration of two of the women's teams and the obligation to cut no more, will send a message to all colleges and universities in Rhode Island and elsewhere to carefully examine their athletic programs, renew their commitment to ensure that their women athletes are being treated fairly and equitably, and to recognize that decisions to cut programs to save money may prove more costly than the projected savings themselves."

ACLU of RI  
LEGISLATIVE ADVOCACY  
TRAINING  
SATURDAY, JANUARY 28, 2023

With civil liberties constantly under attack, 2023 is the year to learn how you can be an effective advocate, whether it be in the Statehouse, your city or town council, or in front of any other public body.

Save the date for our annual Legislative Advocacy Training on Saturday, January 28, 2023 and visit our website [riaclu.org](http://riaclu.org) in the upcoming weeks for more information about this event!

**SAVE THE  
DATE**

# MAKE YOUR NEW YEAR'S RESOLUTION TO KNOW YOUR RIGHTS



As we look towards 2023, make sure that you Know Your Rights! Visit [riaclu.org/know-your-rights](https://riaclu.org/know-your-rights) for information about a variety of civil liberties issues and how to exercise your civil rights.



## 2022 (VIRTUAL) ANNUAL MEETING

From our living rooms to yours, this year's Annual Meeting was again held virtually – and was every bit a success! Thank you to everyone who tuned in via Zoom to hear an update on our work this year. Special heartfelt thanks to our amazing plaintiffs and attorneys who shared their experiences that led to several of this year's biggest court victories. Did you miss the meeting? Tune in to watch it on our YouTube channel (@riaclu)!



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**THANK YOU!**

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**MAIL A TAX-DEDUCTIBLE DONATION:**

Use the return envelope in this newsletter to mail us a check made out to “ACLU Foundation of RI.” You don’t even need a stamp!

**GIVE ONLINE:**

Visit [www.riaclu.org/donate](http://www.riaclu.org/donate) to make a one-time gift or set up a recurring donation.