

**ACLU FILES COURT BRIEF AGAINST
EFFORT TO OVERTURN RHODE ISLAND
REPRODUCTIVE FREEDOM LAW**

The ACLU of RI has filed a court brief seeking to beat back an effort to overturn the state’s recently adopted law that protects the right to an abortion. The filing comes amidst an organized campaign across the country to restrict access to the procedure and overturn *Roe v. Wade*.

In 2019, the R.I. General Assembly enacted the Reproductive Privacy Act, which codifies the principles of *Roe v. Wade* into state law. The law was promoted for years by the ACLU and other pro-choice advocacy groups as a necessary safeguard against the now-confirmed fear that the federal courts might allow states to eviscerate the constitutional right to an abortion guaranteed by *Roe*.

However, even before the bill was signed by then-Governor Gina Raimondo, a group of anti-choice opponents of the law filed a lawsuit against it, making a hodgepodge of dubious legal arguments. After Superior Court Judge Melissa Darigan rejected the arguments of the law’s opponents, they appealed to the R.I. Supreme Court, where the ACLU’s “friend of the court” brief in opposition to the appeal was filed.

The plaintiffs in the case include two then-fetuses at the time the suit was filed. In a short brief filed with the court, ACLU of RI cooperating attorney Lynette Labinger noted that “nothing in the RPA requires, nor could require, any pregnant person to terminate a pregnancy that they wish to continue,” and, in terms of standing to bring suit, *Roe v. Wade* specifically held that “the word ‘person,’ as used in the Fourteenth Amendment, does not include the unborn.” The brief refutes a handful of other arguments made by the other plaintiffs, and supports the position taken by the Attorney General’s office, which is defending the statute’s legality. Before the 2019 law was enacted, the ACLU had successfully challenged in court a half-dozen laws enacted by the General Assembly since 1973 that sought to erode abortion rights.



**SAVE THE DATE
& RSVP TODAY**

**ACLU of RI
ANNUAL MEETING
(via Zoom)**

WEDNESDAY, NOVEMBER 3, 2021, 7:00 PM

To register for this free Zoom event, visit www.riaclu.org/events.

Want to place an ad in our Annual Meeting Program Book? See the form on page 7 of this issue.

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FROM THE DESK OF THE EXECUTIVE DIRECTOR

The legacy of the previous federal administration is still very much with us. Nowhere is that more obvious than with the growing nationwide attack on access to abortion. This battle is far from new. As our cover story notes, Rhode Island enacted the Reproductive Privacy Act in 2019 in anticipation of the exact predicament we are currently facing in the US Supreme Court. But this law took years to pass, and we were forced to go to court no fewer than six times to beat back earlier state legislative efforts to erode abortion rights.

Beyond these high-profile fights, there is a wide swath of “behind the scenes” work that we do that rarely makes it onto the evening news or your twitter feed. Our response to the planned ACI lockdowns for Officers’ Week (page 4) is a particularly egregious example, as are several others mentioned in this issue. These efforts are critical to protecting the rights of all in the Ocean State – because as far as civil liberties are concerned, officials here often need reminders that the Bill of Rights’ guarantees are not recommendations.

Your commitment to our organization makes all this work possible. Thank you, as always.

-- Steven Brown

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ACLU SETTLES SUIT OVER FACEBOOK CENSORSHIP BY WOONSOCKET MAYOR

The ACLU has favorably settled a federal First Amendment lawsuit filed earlier this year, challenging Woonsocket Mayor Lisa Baldelli-Hunt’s banning of some of her critics from her Facebook page. Under the settlement, the mayor can no longer block individuals from her page based on their expression of First Amendment-protected viewpoints.

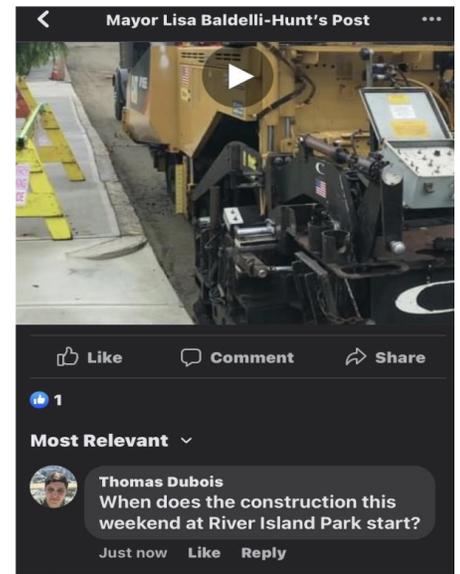
The suit was filed by ACLU of RI cooperating attorney David Cass on behalf of Greg Duhamel and Thomas Dubois, both of whom were blocked from the Mayor’s Facebook page after they raised questions on her page about her official activities. The lawsuit argued that the censorship violated their First Amendment rights “to speak and to petition the government for redress of grievances.”

Mayor Baldelli-Hunt banned Duhamel from her Facebook page after he challenged a post in which the mayor attempted to claim credit for the building of a local skate park. More recently, Dubois questioned construction taking place at a local park. His question was quickly deleted, and he found himself banned from the page.

The lawsuit argued that the @lisabaldellihunt Facebook page was used by the mayor as a tool of governance, and constituted a “public forum” that could not be used to censor critics. A month after the suit was filed, the City agreed to settle the case. The ACLU of RI is considering additional litigation based on complaints from members of the public who have been similarly blocked by other officials on social media.

IN WAKE OF ACLU OBJECTIONS, PROVIDENCE REVISES SCHOOL EMPLOYEE SOCIAL MEDIA POLICY

After receiving numerous complaints from Providence Public School teachers, the ACLU of RI has persuaded local and state education officials to revise the school district’s “Social Media for Employees” policy that the ACLU argued infringes on teachers’ free speech rights. Teachers had been reprimanded under the policy for calling attention on their personal social media accounts to substandard school facilities, based on the policy’s restriction on use of social media in ways that “adversely impact” the “working environment.” Given the decades-long battle to improve conditions in Providence schools, the ACLU noted that “this is precisely the sort of information of public concern that [employees] have a right to inform the community about.” In response to the ACLU’s intervention, the School Board has given first passage to a revised policy that addresses the free speech concerns.



U.S. SUPREME COURT UNANIMOUSLY PROTECTS PRIVACY IN MAJOR “SEARCH AND SEIZURE” CASE FROM RHODE ISLAND

In an important victory for privacy rights, the U.S. Supreme Court unanimously rejected police arguments that engaging in a non-criminal “community caretaking” function allows them to search a person’s home without a warrant. The ACLU of RI filed a “friend of the court” brief before the Court, and represented the petitioner in the lower courts, arguing that an unfavorable ruling in the case could “give police free rein to enter the home without probable cause or a warrant, whenever they think it is ‘reasonable’ to do so.”

The original case, dating back to 2015, involves Cranston resident Edward Caniglia, whose two lawfully owned firearms were seized from his home without a warrant or his consent as a result of a non-emergency “wellness check” conducted by Cranston police officers. When Caniglia went to retrieve the weapons, he learned that the Department had a policy of requiring a court order to return weapons seized for “safekeeping.”



ACLU of RI cooperating attorneys Thomas Lyons and Rhiannon Huffman

sued the Cranston Police Department, challenging both the seizure of his weapons without a warrant and the department policy of requiring a court order to return them. Federal courts ruled that the policy of refusing to return the firearms was unconstitutional, but upheld the warrantless search and seizure on the grounds that police were engaged in a “community caretaking” function.

Caniglia appealed to the Supreme Court, which agreed to hear his case to decide whether the “community caretaking” exception to the Fourth Amendment’s warrant requirement – an exception that previously involved only warrantless searches of impounded cars – could be applied to searches of the home. In its brief unanimous opinion, SCOTUS said “no,” ruling that “[w]hat is reasonable for vehicles is different from what is reasonable for homes.”

ACLU CALLS ON CRANSTON, PAWTUCKET, AND WOONSOCKET TO HALT ALPR CAMERA PROGRAM

The ACLU of RI sent letters to the Cranston, Pawtucket and Woonsocket city councils urging them to direct their respective police departments to stop the use of automated license plate reader (ALPR) technologies which were installed on a trial basis without any public notice, input or statutory guidance.



The ACLU noted that the cameras capture far more information than license plate numbers, and can even search vehicles by characteristics such as color and bumper stickers. Further, the lack of legislatively established limits on the use of the cameras leaves any privacy limits solely in the hands of the police and the private company operating the program. The ACLU also pointed out that historically, police surveillance has often discriminatorily targeted communities of color.

The ACLU letters asked the city councils to instead enact ordinances to prohibit the use of this system and to promote community engagement, oversight and transparency in the implementation of any future law enforcement surveillance technologies. In the meantime, the ACLU of RI has filed open records requests to learn more about the municipalities’ use of the cameras.

ORGANIZATIONS CALL FOR HALT TO ACI LOCKDOWNS FOR “CORRECTIONAL OFFICERS’ WEEK” FESTIVITIES

The ACLU of RI and the RI Center for Justice filed objections with the RI Department of Corrections over plans for a multi-day lockdown of ACI prisoners so that correctional officers could partake in “National Correctional Officers’ Week” events. During this lockdown, most activities, including education, exercise, and programming would be on hold for all inmates.



One of the planned lockdowns was to accommodate a day-long cookout where COs and their families would enjoy golf, volleyball and other activities. Another lockdown was planned for “Family Night” where families of officers could tour ACI facilities, which the ACLU and CFJ said “offensively treats incarcerated people like animals on display.” The two groups argued that it was “completely inappropriate” to implement lockdowns “that do not directly serve safety, security or other compelling government interests,” and called it “reckless” to allow dozens of visitors to tour the facilities given the prevalence of the COVID Delta variant.

In response to follow-up media inquiries, the DOC acknowledged it was cancelling the “Family Night” tour, and also claimed that any lockdowns during the week would be for minimal lengths of time. The ACLU and CFJ will be reviewing the actual impact of the week’s events on the rights of prisoners and will be considering taking additional steps in anticipation of next year’s celebration.

ACLU OF RHODE ISLAND BOARD ELECTIONS

Are you interested in being considered for the ACLU of RI’s Board of Directors? If so, let us know and we will provide you information about the process and Board Member duties and responsibilities. We especially welcome a diverse pool from our membership. You can let us know of your interest by emailing us at info@riaclu.org.

LEGISLATIVE UPDATE: ACLU LOBBYING CONTINUES IN OFF-SEASON

The General Assembly may be out, and the chances for a fall session are appearing more and more remote, but we are continuing to work on a number of big issues that did not get resolved before the legislature’s recess in June:

- We submitted testimony to the newly-appointed state redistricting commission and are closely following its activities.
- We continue to work with the RI Voting Access Coalition to get comprehensive voting reform legislation enacted early next session.
- We are working on marijuana legalization efforts, including advocating to ensure that any bill will have strong social justice measures and protect users from discrimination in employment.
- With the Immigrant Coalition, we are pressing for passage of “drivers’ licenses for all” legislation early in the session. We have prepared a detailed rebuttal of DMV testimony which was largely responsible for killing the bill this year.
- We are participating in meetings with Senate staff, community organizations and law enforcement representatives to negotiate amendments on a comprehensive bill that would reinstate traffic stop data collection and analysis.



NEWS & LEGAL BRIEFS

OPEN GOVERNMENT GROUPS CALL FOR TEMPORARY REINSTATEMENT OF REMOTE MEETING PROTOCOLS

The ACLU and other open government groups have called on Governor Daniel McKee to reinstate an executive order that would allow public bodies to meet remotely and similarly provide for remote participation by the public. An executive order to that effect expired in July when it appeared that the Covid-19 pandemic had finally gotten under control.

Because of the new pandemic wave caused by the Delta variant, however, the letter from the open government coalition ACCESS/RI to the Governor noted that some public bodies have had difficulty garnering quorums to meet in person due to the health concerns of some members and, just as importantly, “members of the public have been reluctant to attend meetings for those same reasons.” While some public bodies are continuing to livestream their meetings and allow remote public participation, “many others are not, leaving constituents with the choice of participating in their government only if they are prepared to risk their health and that of those close to them.” The ACLU is awaiting a response to the request.

ACLU FILES BRIEF CHALLENGING DENIAL OF RIGHT TO VOTE TO NON-PROPERTY OWNERS IN NARRAGANSETT FIRE DISTRICT

The ACLU filed a legal brief in support of a lawsuit challenging a Bonnet Shores Fire District (BSFD) policy that bars residents from voting if they own less than \$400 of property in the district, while allowing thousands of non-resident beach cabana owners to exercise the right. The ACLU’s brief, filed by cooperating attorneys James Rhodes and Lynette Labinger, notes that the Fire District “exercises broad government powers” that include the adoption of “ordinances whose violation may be punished with fines and terms of imprisonment.” The brief argues that in “restricting the right to vote to certain ‘property owners,’ the BSFD follows in a long, justifiably discredited, history in this country and state in restricting the right to vote to a favored class.” The ACLU is also looking into similar policies in effect in other fire districts in the state.

ACLU SUES OVER CONTINUED INCARCERATION OF INMATE GRANTED PAROLE

The ACLU of RI and the Public Defender filed a habeas corpus petition arguing that inmate Francisco Martinez is being held at the ACI unlawfully due to an unannounced DOC decision to retroactively change the way it calculates parole eligibility dates for certain inmates. The ACLU successfully filed a similar petition last year on behalf of another prisoner, and is examining ways to address the problem more systematically, since many other inmates remain affected by the policy.

The petition in Martinez’s case was combined with a separate post-conviction relief petition filed on his behalf and, as this newsletter went to press, a judge granted the requested relief.



ACLU DEMANDS ACTION ON ILLEGAL CRANSTON TRAFFIC STOP POLICY

The ACLU has called on Cranston’s Mayor and City Council to take immediate action to halt a long-standing policy requiring police officers to stop a minimum of two cars during their patrol shifts. The policy directly violates a state law prohibiting police departments from having investigatory stop, arrest or ticketing quotas. However, Cranston police department emails obtained by the ACLU document the “two car stop” mandate for police cars on patrol. In addition to calling out the blatant violation of the state law, the ACLU claimed that the policy was likely responsible for the police department’s “consistently disturbing racial disparities in stopping and searching cars” as documented in reports issued under the state’s traffic stop data collection law. The police chief has given no indication of backing off the policy, so the Affiliate is considering litigation over it.

In Memoriam

In the short space of a month over the summer, the ACLU of RI – and the state – unexpectedly lost three dedicated civil libertarians and long-time ACLU activists. We mourn their loss and remain deeply grateful for their service.



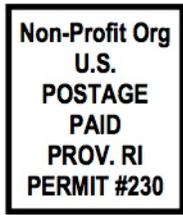
Over the varied course of his service with the ACLU, **Christopher Corbett** was an assiduous staff person, Board member and cooperating attorney. As a member of the Affiliate staff for over six years, Chris handled a wide array of job duties with humor and aplomb. After graduating from law school, he served both as a cooperating attorney and on the Affiliate's Board of Directors. As a volunteer attorney, he filed a number of "friend of the court" briefs and co-counseled an important First Amendment case challenging the censorship of political advertisements at T.F. Green Airport. Two years ago, he sparkled as a presenter at the Affiliate's 60th anniversary dinner.

John Dineen was a conscientious objector in the Vietnam War and dedicated his life to social justice, first as an attorney at Legal Services and then as a long-time volunteer attorney for the ACLU of RI, for which he handled a few dozen cases. Being especially committed to the indivisibility of free speech, he represented an extraordinary range of plaintiffs for the ACLU in fulfillment of that principle – students, street musicians, police officers, and adult video store owners, to name a few. The last case he handled for the Affiliate resulted in a court decision in favor of a Johnston police detective who had been disciplined for speaking out on police matters. The First Amendment lost a dear ally with his passing.



Jeff Melish left his mark on the Affiliate as both a long-time Board member and cooperating attorney. Jeff's quiet demeanor hid a deep and abiding passion for civil rights and liberties. He took on numerous challenges as an ACLU volunteer lawyer for almost three decades. Many of those cases involved the rights of students, but he also represented a mother barred from breastfeeding her baby in public, and successfully challenged a town ordinance limiting the number of unrelated students who could live together. In his last ACLU case, he successfully advocated for two children who were kicked out of school for the rest of the year as punishment for their parents letting them attend school while their father awaited a COVID test result.

We extend our deepest condolences to the family, friends and colleagues of Chris, John and Jeff. They will be missed.



RETURN SERVICE REQUESTED

**YOUR SUPPORT HAS A REAL IMPACT –
THIS NEWSLETTER IS PROOF OF THAT.
THANK YOU!**

**HERE'S HOW YOU CAN CONTINUE TO
HELP BY GIVING TODAY:**

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/get-involved/donate to make a one-time gift or set up a recurring donation.

YOU ARE INVITED!

2021 ACLU OF RI ANNUAL MEETING

Join us – via Zoom – for our 2021 Annual Meeting. Hear firsthand from our cooperating attorneys about our recent lawsuits, and more. RSVP today and visit our website for more info.

WHAT:

ACLU of RI Annual Meeting (via Zoom)

WHEN:

Wednesday, November 3, 2021 - 7pm

TO RSVP:

To register for this free Zoom event, visit riaclu.org/events.

**VISIT WWW.RIACLU.ORG/EVENTS
TO RSVP TODAY!**