

2021 IN REVIEW

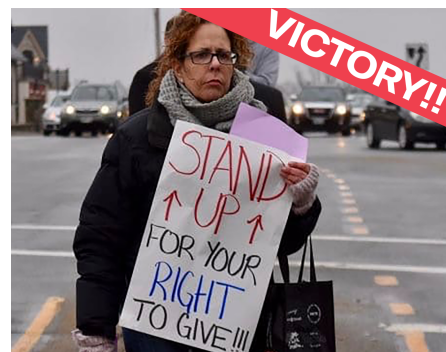
The continuation of the COVID pandemic brought many challenges to the defense of civil liberties, but they are challenges we continued to meet. Remote participation in this year's General Assembly session did not stop us from lobbying on more than 300 bills and obtaining some important legislative victories. And, for the second year in a row, we helped score a major triumph in the U.S. Supreme Court. **Here is a small sampling of highlights from our work this year.**

FIRST AMENDMENT

* In a blow against the criminalization of poverty, a federal judge agreed with ACLU arguments and declared unconstitutional a Cranston ordinance that banned all panhandling, charitable solicitation and leafletting from roadway medians.

* An ACLU lawsuit led to an important free speech win when the Mayor of Woonsocket agreed to stop blocking people from her Facebook page for posting critical comments.

* We successfully represented a Portsmouth homeowner who faced \$500-a-day fines for posting political signs on his property.



Plaintiff Debbie Flitman protesting Cranston's anti-panhandling ordinance.



GENDER EQUALITY

* We filed a "friend of the court" brief urging the R.I. Supreme Court to dismiss a challenge to the Reproductive Privacy Act, the state law codifying the protections of *Roe v. Wade*. The law was enacted two years ago in anticipation of the exact predicament we are currently facing in the U.S. Supreme Court.

* After years of our lobbying for the measure, the General Assembly enacted a law barring health insurance companies from using gender as a factor in setting premiums.

* In an important sex discrimination case, the ACLU successfully argued in a federal appeals court in support of a settlement agreement it had reached with Brown University that reinstated two women's sports teams it had previously cut.

(2021 YEAR IN REVIEW CONTINUES ON PAGE 4)

LOOK INSIDE

DCYF Breastfeeding; 1 st Amend & AG	2
Disability Rights; Prisoner Rights	3
2021 in Review (cont'd)	4-5
1 st Amend Settlement	5
Tech Privacy; Patients' Rights	6
DLT Unemployment Freeze	7
Banned Books Quiz Answer	8

INSERT: 2021 LEGAL DOCKET

FROM THE DESK OF THE EXECUTIVE DIRECTOR

Despite changes at the federal level, the past year was a bumpy one for civil liberties in the Ocean State and across the country, with cunning assaults on voting, abortion, and many other fundamental rights. It is a tiring but familiar backlash, and right now, **that backlash is predominantly playing out on the state and local stage.**

This is how progress often works: two steps forward, one step back. Progress will happen – but not on its own. We have to actively fight for it. And that is why, for more than 60 years, our Affiliate has not backed down. This year was no different.

As you can see from our year-in-review and the numerous other activities reported in this newsletter, we've been hard at work defending the rights of all against a wide range of opponents. Given where we are at, it is clear that **our state and local work is absolutely critical**, and that is why your continued support is so important.

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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AMID REPORTS OF BREASTFEEDING INFANTS BEING TAKEN FROM MOTHERS, ACLU PRESSES DCYF TO ADOPT STANDARDS

In response to complaints from attorneys and social workers about DCYF's practice of taking breastfeeding children away from their lactating parent without providing any accommodations, the ACLU is pressing the state agency to adopt a clear policy that would end the practice, protect the health of the breastfeeding children in its care, and provide reasonable accommodations to lactating parents. As a result of the Affiliate's intervention, DCYF has begun drafting a breastfeeding-friendly policy that will, hopefully, take effect early in the new year.

Presently, DCYF has no formal policies on the issue and, as a result, the ACLU noted in a letter to the agency demanding action, it is at the sole discretion of case workers as to whether any arrangements are made to allow a lactating parent to continue breastfeeding or, alternatively, to ensure that the infant continues to be fed the parent's expressed breast milk.

The letter, citing the many health benefits that breastfeeding is known to provide to both babies and parents, further noted that "the disruption to this medically beneficial activity is often taking place in situations where there has been no formal adjudication of the parent's unfitness and where breastfeeding has already begun." The ACLU is in the process of providing detailed feedback to the Department on its draft policy.

RI ATTORNEY GENERAL WILL NOT ENFORCE LAW BARRING GROUPS FROM USING "DEMOCRAT," "REPUBLICAN" IN NAME

Thanks to ACLU intervention, the RI Democratic Women's Caucus (RIDWC) will be able to continue to use its name without fear of sanctions.

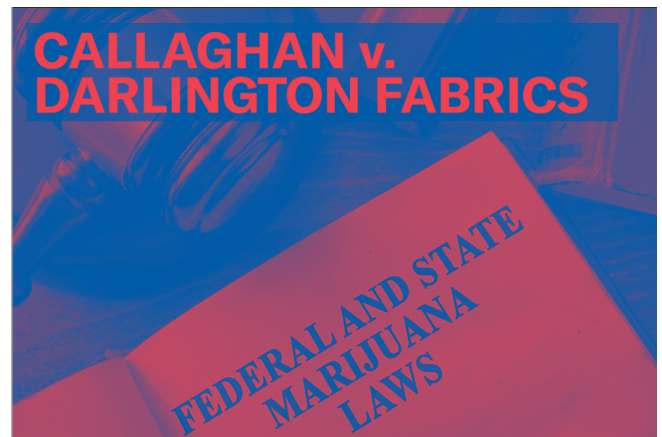


In October, the RI Democratic Party, which has been in a feud with RIDWC, demanded that the organization remove the word "Democratic" from its title, citing a 1931 state law that makes it unlawful for any club or association to use the word "republican" or "democrat" in its name without the respective party's consent.

After receiving a request for assistance from the RIDWC, the ACLU agreed to challenge the law, but first called on the Attorney General to disavow any intent to enforce the statute, noting the significant First Amendment issues raised by the law. The AG quickly did so, obviating the need for litigation, and the Democratic Party has taken no further action.

ACLU SETTLES LAWSUIT PROTECTING MEDICAL MARIJUANA PATIENTS FROM DISCRIMINATION

The ACLU of RI recently settled an important lawsuit regarding the employment rights of medical marijuana patients. The settlement comes four years after a judge first ruled that a Westerly company discriminated against Christine Callaghan when her paid internship was rescinded because of her participation in the state's medical marijuana program. The state's medical marijuana law bars discrimination in employment against "cardholders," and the judge found unavailing the company's argument that the law nonetheless allowed them to not hire Callaghan because she could not pass a drug test.



The lawsuit was filed in 2014 by ACLU volunteer attorney Carly Beauvais Iafrate on behalf of Callaghan, a graduate of the Savannah College of Art and Design who was studying textiles and working towards a masters' degree in that field at URI. She had participated in the medical marijuana program for almost two years when she applied for a paid internship at Darlington Fabrics Company. When Callaghan advised the company that she would be unable to pass a drug test due to the use of medical marijuana, the company said they could not continue with the interview, and they did not hire her.

Under the settlement agreement, the company has agreed to pay Callaghan \$3,500 in back pay and compensatory damages, and to pay attorneys' fees. The company also agreed to amend its drug use policy to consider applicants who are authorized medical marijuana cardholders.

LAWSUIT CHALLENGES ACI PRISONER'S LENGTHY SOLITARY CONFINEMENT FOR EXERCISING FIRST AMENDMENT RIGHTS

In a case that alleges numerous constitutional violations by the state Department of Corrections (DOC), attorneys for the R.I. Center for Justice and the ACLU have filed suit on behalf of a man who spent almost eight months in solitary confinement in retaliation for exercising his First Amendment rights. The suit, filed by Center for Justice attorney Natalia Friedlander and ACLU cooperating attorney Brett Beaubien, is on behalf of Joseph Shepard.



In January 2019, while in Medium Security, Shepard provided DOC officials a packet of complaints he had put together, raising concerns about conditions at the facility, perceived rule breaking by RIDOC staff, and failures of the internal grievance system in resolving complaints of wrongdoing. Shortly thereafter, Shepard was charged with engaging in a "mutinous act" for possessing documents from a national inmate-led organization to which he had also sent the packet. Under the DOC's mail policy, prison officials could have seized the allegedly "mutinous" documents when they arrived at the facility, but they did not.

Although Shepard was given 20 days in segregation as punishment, he ended up being kept in High Security for a total of eight months and suffered a variety of medical problems while confined there, despite classification board recommendations that he be returned to medium security. In addition to other issues, the lawsuit claims that some correctional officers told Shepard that his disciplinary charge was pretextual, and that he was actually being punished because of the complaints he had filed.

(2021 YEAR IN REVIEW CONTINUED FROM PAGE 1)



VOTING RIGHTS

- * We filed a brief challenging Bonnet Shores Fire District by-laws that bar residents who do not own property from voting in fire district elections.
- * Responding to polling location closures in low-income, non-white neighborhoods during last year's elections, we submitted proposed regulations to establish clear, public standards before polling locations can be closed.

PRIVACY

* We favorably settled a precedent-setting lawsuit that held that employers could not discriminate against job applicants based solely on their off-work use of medical marijuana. (See article on page 3 of this issue.)

* On behalf of Cranston resident Edward Caniglia, the U.S. Supreme Court ruled unconstitutional a police practice of searching homes without a warrant when engaged in vaguely defined "community caretaking" functions.

SUPREME COURT OF THE UNITED STATES

Syllabus

CANIGLIA v. STROM ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIRST CIRCUIT

No. 20–157. Argued March 24, 2021—Decided May 17, 2021

STUDENTS' RIGHTS

* Our advocacy prompted CCRI to revise the college's free tuition program to allow students with disabilities to take more than two years to earn their degree.

* We are involved in two ongoing lawsuits and an array of advocacy efforts to end school-based policing and promote school discipline reform. Our actions aim to end the funneling of poor students, students of color, LGBTQ students and students with disabilities into the criminal justice system, and further everyone's right to an equitable education.



DUE PROCESS

* For the second year in a row, the ACLU assisted in obtaining the release of a prisoner who had been granted parole but remained held at the ACI based on a retroactive change made by prison officials in calculating parole eligibility dates.

* We settled our lawsuit against the RI Department of Labor and Training (DLT) which will prevent a repeat of last year's debacle when thousands of residents had their unemployment insurance benefit payments unexpectedly frozen.



Plaintiff and RWU law student Lindsay Koso.

OPEN GOVERNMENT

* A federal judge ruled in favor of a Johnston police detective - represented by us - who was suspended after he publicly voiced concerns about police department actions.

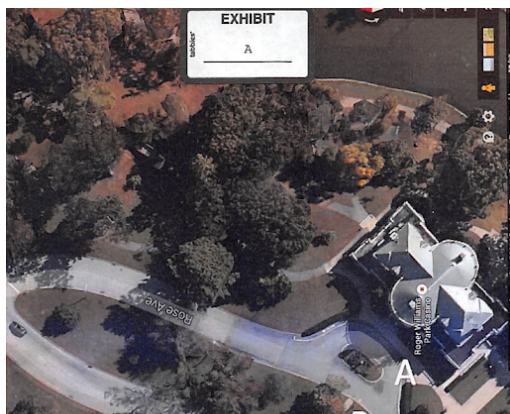
* We successfully represented a RWU law student who was charged hundreds of dollars by the Attorney General to obtain copies of public reports that state law specifically required his office to submit to the General Assembly.

*(2021 YEAR IN REVIEW CONTINUES)***CRIMINAL JUSTICE**

* Dozens of professional licensing statutes were amended, as the result of ACLU lobbying, to bar state officials from denying licenses to people if they had ever been convicted of undefined “crimes of moral turpitude.”

* The ACLU appeared in state and federal court in separate cases seeking to strike down once and for all the state’s archaic statute declaring individuals serving life sentences “civilly dead” and barring them from bringing lawsuits on their behalf.

ONE DEFINITION OF “MORAL TURPITUDE” IN BLACK’S LAW DICTIONARY IS “CONDUCT THAT IS CONTRARY TO JUSTICE, HONESTY OR MORALITY” – NOT TERRIBLY HELPFUL.



The site of the 2013 protest.

ACLU SETTLES SUIT OVER POLITICAL PROTEST AT ROGER WILLIAMS PARK CASINO

The ACLU of Rhode Island has favorably settled a long-running lawsuit against the Providence Police Department, on behalf of two plaintiffs who alleged their free speech rights were violated during a protest outside a fundraiser being held for then-Gubernatorial candidate Gina Raimondo.

The lawsuit, filed by ACLU cooperating attorney Richard A. Sinapi on behalf of Shannah Kurland and Gladys Gould, stemmed from police actions outside the Roger Williams Park Casino in September 2013. Over 200 people, including Kurland and Gould, gathered in

the park outside the Casino with signs to protest Raimondo’s controversial pension reform activities as General Treasurer. During the protest, the lawsuit claimed, the two plaintiffs (along with the other demonstrators) were ordered by Providence police to move farther and farther away from the Casino, making it much more difficult for them to have their message seen and heard by individuals attending the event. Gould reluctantly moved each time, but when Kurland refused to move to the farthest location, she was arrested for disorderly conduct, a charge that was ultimately dismissed.

In settling the suit, the City agreed to pay attorneys’ fees and \$13,000 to each of the plaintiffs. The lawsuit had argued that parks and sidewalks “are quintessential public forums,” and that since the plaintiffs “were in no way interfering with the flow” of pedestrian or motor vehicle traffic, “there was no legitimate governmental interest in relocating their protest on three different occasions.”

GET READY FOR THE 2022 LEGISLATIVE SESSION WITH THESE RESOURCES:

CIVIL LIBERTIES ADVOCACY TOOLKIT

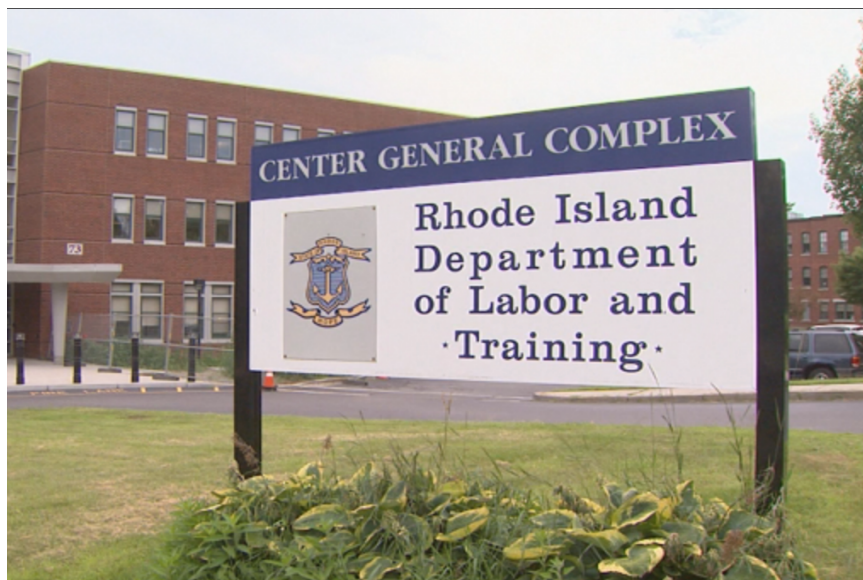
Want to learn more about advocating for civil liberties in anticipation of the 2022 Legislative Session? Visit www.riaclu.org/legislation and click on ADVOCACY TOOLKIT. And stay tuned for a Zoom legislative advocacy training taking place in the new year!

2021 VOTING RECORD ONLINE

Want to see how your state Representative and Senator voted on key civil liberties bills in 2021? A voting chart is available at www.riaclu.org/legislation.

ACLU SUIT AGAINST RI DLT ENDS WITH DETAILED SETTLEMENT OVER UNEMPLOYMENT BENEFIT FREEZES

The RI Department of Labor and Training (DLT) has agreed to take numerous steps to prevent a repeat of last year's debacle when thousands of residents had their unemployment insurance benefit payments unexpectedly frozen. The settlement comes in a lawsuit filed by the ACLU of RI during the early stages of the COVID pandemic, when many in Rhode Island were forced to rely on unemployment benefits to make ends meet.



The class-action lawsuit, alleging numerous due process violations by the agency, was filed in May 2020 by ACLU of RI cooperating attorneys Ellen Saideman and Lynette Labinger. At that time, concerned about fraudulent pandemic-related applications, the DLT froze the payments for thousands of Rhode Island workers who had become unemployed, but it did so without providing any notice of the reasons for the suspension or how to contest it.

The lead plaintiff in the case, Steven Hanson, was a self-employed real estate appraiser with serious medical conditions, whose treating physician advised him to stop working in April 2020 because of the dangers posed by Covid-19 were he to be exposed to the virus. Hanson applied for unemployment, and received only one payment before they stopped. Seeking an explanation, he called DLT numerous times – and once waited about four hours on hold – without ever connecting to someone.

After the suit was filed, the agency took preliminary steps to address the problems caused by the summary freezing of benefits, including sending out notices whenever benefits were suspended and increasing the number of staff dedicated to communicating with individuals whose unemployment benefits had been frozen.

The detailed settlement agreement establishes comprehensive procedures to ensure that claimants receive proper notice before benefits are frozen or cut off and requires DLT to take prompt action to address inquiries about those actions.

2021 (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, heart-felt thanks to our awesome plaintiffs 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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**YOUR SUPPORT HAS A REAL IMPACT
– THIS NEWSLETTER IS PROOF OF
THAT.**

We hope you will use the enclosed envelope to make a generous year-end contribution.

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

ANSWER TO BANNED BOOKS QUIZ FROM OUR FALL 2021 NEWSLETTER:

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ANSWER: You never really understand a person until you consider things from his point of view — until you climb into his skin and walk around in it. (To Kill a Mockingbird)