

## SPOTLIGHTING STUDENTS' RIGHTS ISSUES

### DAMAGES AWARDED OVER ASSAULT AND ARREST OF NARRAGANSETT SPECIAL EDUCATION STUDENT

In a victory for student rights, the ACLU of Rhode Island favorably settled a federal lawsuit filed three years ago on behalf of a then-Narragansett High School student with special education needs who was thrown to the ground, choked, and arrested by a school resource officer (SRO) over a rude hand gesture the student gave the SRO. A videotaped record of the incident shows SRO Kyle Rooney forcefully slamming to the floor and restraining 11th-grader Michael Blanchette for a few minutes before removing him from the school in handcuffs.



The incident arose when Rooney confronted Michael about whether he was allowed to be walking in the school hallway at the time, to which Michael said he had permission. After a brief argument about it, Michael gave Rooney the finger and began to walk away, but the officer immediately grabbed Michael and violently threw him on the floor. (Cont'd on p. 2)

### ACLU OF RI REPORT DETAILS “ALARMING” RATES OF SCHOOL SUSPENSIONS OF K-5 STUDENTS AND “EXTRAORDINARILY HIGH” SUSPENSION RATES OF STUDENTS BASED ON RACE AND DISABILITY

The ACLU of Rhode Island released a report detailing the significant number of out-of-school suspensions meted out each year to Rhode Island public school elementary school students, including kindergartners, often for such minor offenses as “disrespect.” The report also makes plain the “discriminatory and harmful suspension patterns” in the out-of-school suspension rates of Black, multi-racial, and Hispanic students, as well as students with disabilities.

#### Still Oversuspended and Underserved:

Continued Disparities in  
Suspension Rates in Rhode Island

March 2023



The report examined suspension data for the three years preceding the Covid-19 pandemic — 2016-2017, 2017-2018, and 2018-2019. The disparities found in the data were consistent: Every year that was studied mirrored results that the ACLU had tracked over a period of two decades, showing “severe” suspension disparities for students of color and students with disabilities across all grades. (Cont'd on p. 2)

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## FROM THE DESK OF THE EXECUTIVE DIRECTOR

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It's crunch time in the legislative session, as a wide breadth of issues are being heard in the House and the Senate. Now, more than ever, is the time to stay engaged with what's happening in our state government.

We were inspired by the energy and momentum at our recent workshop. A packed and enthusiastic crowd gathered in South Kingstown to learn about current legislation and collectively wrote nearly 200 postcards to legislators.

One person commented to me how actions as small as sending a letter or picking up the phone and calling their representative were so rewarding. Those very actions do make a difference, especially as we near the end of the legislative session.

We hope you'll look in the following pages for your own inspiration and join us in speaking up against the troubling bills listed (or for the positive civil liberties bills highlighted in our last newsletter). Your support, your actions, and your voice matter.

– Steven Brown

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## SUIT AGAINST NARRAGANSETT SRO SETTLED (Cont'd from p. 1)

Rooney's arrest report falsely claimed that he took this action because "Michael aggressively took a step towards me," an allegation belied by the video, which shows Michael starting to turn away from the SRO before being slammed to the ground. Rooney charged Michael with disorderly conduct and resisting arrest, but both charges were later dismissed.

In settling the case, which avoided the necessity of a planned trial, the school district, without admitting liability, agreed to pay Blanchette \$75,000 in monetary damages. The suit was handled by ACLU of RI cooperating attorney Amato DeLuca.

Among other claims, the suit had argued that Rooney violated Michael's Fourth Amendment right to be free from unreasonable searches and seizures; retaliated against Michael in violation of the First Amendment; unlawfully assaulted him; and filed unfounded criminal charges against him.

For years, the ACLU of Rhode Island has raised concerns about how SROs often escalate minor disciplinary incidents into major ones, and turn routine school infractions into criminal matters, unnecessarily introducing teenagers to the criminal justice system and scarring them in the process. The ACLU has also issued a series of reports, most recently this past month, documenting that students with disabilities, along with students of color, are disproportionately disciplined in virtually every Rhode Island school district, including Narragansett. Statistics from the R.I. Department of Education show that two-thirds of all out-of-school suspensions issued by Narragansett High School the year of this incident were of students with disabilities.

## SCHOOL SUSPENSION REPORT ISSUED (Cont'd from p. 1)

In order to address these disparities, the ACLU report urges, among other recommendations, legislation to significantly curb the ability of schools to issue out-of-school suspensions to K-5 students, and to hold school districts more accountable in analyzing suspension data and responding to any disparities on the basis of race or disability that their data may show.

The report, available on our website, also suggests that school districts are ignoring a 2016 law that was designed to limit the use of out-of-school suspensions to only serious acts of misconduct. Instead, the report shows students are inordinately suspended for minor and subjective types of misconduct such as "insubordination" or "disrespect."

Legislation that incorporates some of the report's recommendations has been heard at the State House.

## 2023 LEGISLATIVE PREVIEW - PART 2: ANTI-CIVIL LIBERTIES LEGISLATION

Here's a look at some of the anti-civil liberties bills that the ACLU of RI is lobbying against this session. We covered some of the positive legislation in Part 1, in the Jan/Feb 2023 issue of our newsletter. For up-to-date info on these and many other bills, visit [riaclu.org/legislation](http://riaclu.org/legislation).



### *FIRST AMENDMENT RIGHTS*

#### **“Parental Rights” Legislation**

**(H 5688, H 5739, H 5859/ S179, S 186, S 414)**

We strongly oppose a package of bills purporting to enhance parental consent and involvement in their minor child's education, but which instead seek to dictate curricular and educational decisions in ways that are censorious, contrary to fundamental pedagogical principles, and impractical to implement in all but the most arbitrary fashion. Provisions in these bills – which mirror ones being pushed across the country – would allow for parents to remove curriculum material deemed harmful to “morality”; require that “all

sides” of classroom topics be taught, presumably including both “sides” of human rights atrocities like the Holocaust or “flat-earth theory” in science lessons; and a ban on books that “center any race, ethnicity, gender, religion or viewpoint.” Fortunately, the bills are expected to die in committee.

#### **Workplace First Amendment Rights (H 5516, S 447)**

As an organization that deeply values freedom of speech, we are very sympathetic to the goal of this bill, which would create a broad statutory right to free speech and the free exercise of religion for all employees in the private sector. However, we oppose the legislation because its breadth and statutory coverage are so extensive that it would undermine the rights of other employees to be free of a hostile work environment and allow employees' religious views to dictate workplace conduct.

### *REPRODUCTIVE FREEDOM*

#### **Anti-Abortion Rights Legislation**

**(H 5047, H 5228/ S 298, S 392, S 397)**

In 2019, the General Assembly passed the Reproductive Privacy Act, which codified the tenets of *Roe v. Wade* into state law and ensured that safe, legal abortion access was protected for all Rhode Islanders. The importance of this legislation's passage – and the need for continued advocacy around abortion rights – is especially clear in light of the slew of anti-choice bills that have been introduced this session to undermine it. We testified in opposition to the bills, noting that they deliberately attempt to chip away at the ability for Rhode Islanders to make their own reproductive choices.



### *PRIVACY*

#### **Health Care Advocate Access to Health Records (H 5915, S 728)**

We opposed legislation that would allow the Attorney General's Health Care Advocate (HCA) to receive unredacted confidential health care information of individuals without consent. The bill was introduced under the premise that it often takes too long for the HCA to get the records in redacted form, but we noted our concern for patient privacy and the broad authority this bill would give to the HCA to unnecessarily gain access to sensitive personally identifiable information.

## *RACIAL JUSTICE*

### **Police PTSD Disability Benefits (H 5373, S 230)**

After the “Black Lives Matter” demonstrations in recent years, police accountability has rarely been more of an important issue. In addressing legislation designed to permit first-responders to apply for disability benefits based on occupationally related PTSD, we opposed its scope since it could allow police officers to recoup disability benefits based on misconduct that they themselves engaged in. Such concerns are not hypothetical. In one example cited by the ACLU, an Arizona police officer was temporarily rehired by his department to apply for PTSD benefits after being acquitted in the fatal shooting of an unarmed civilian who had begged the officer not to shoot him. We urged amendments to the bill so that police officers did not have the opportunity to seek compensation following these types of incidents.



## *DUE PROCESS*

### **Expansion of Civil Commitment Powers (H 5819, S 723)**

This legislation would allow Advanced Practice Registered Nurses (APRN) to attest to a patient’s mental health condition and participate in certifying patients for mandatory outpatient treatment, an action which is presently something that only doctors can authorize. Although we acknowledged the important role that APRNs play in the mental health community, we argued that when it comes to medical recommendations for involuntary treatment, patients are stripped of critical elements of due process when the decision is in the hands of anyone other than a physician – the only person who can release a person from commitment.



## *CRIMINAL JUSTICE*

### **Statehouse-To-Prison Pipeline**

#### **(H 5112, H 5699, H 6098, H 5046/ S 118, S 332)**

Every year, dozens of bills get introduced creating new but unnecessary crimes or arbitrarily increasing the penalties for current criminal offenses. This year has been no exception. Among other proposals, a number of bills would increase the penalties for various driving offenses. The ACLU noted that sending people to prison for longer periods of time would not deter reckless driving nor assist in the rehabilitation of offenders. Another bill would make the misdemeanor crime of simple assault a felony if committed on a taxi driver. We strongly opposed the bills and others like them.

### **Animal Abuse Registry (H 5207)**

We have once again opposed legislation that would create an “animal abuse registry” similar to the objectionable public registration requirements in effect for persons convicted of sex offenses. Like those laws which impose onerous registration burdens and establish broad community notification requirements, this registry would undermine rehabilitation by promoting the harassment of ex-offenders seeking to reintegrate into the community. National organizations such as the ASPCA and the American Kennel Club have also objected to the registry due to its known ineffectiveness.

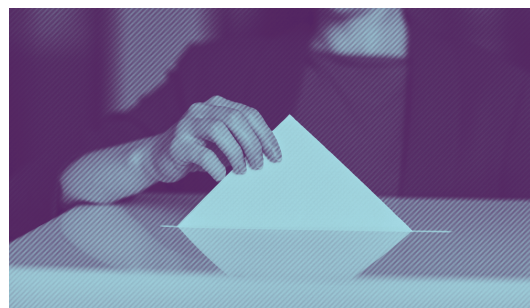
### **“Mandatory Reporting” Failure Penalties (H 5358, S 814)**

We opposed legislation that would make it a felony, rather than a misdemeanor, for teachers, coaches, or any other person in a “position of authority” to fail to report child abuse or neglect. We expressed our opposition to the “felonization” of more offenses, and argued that it would encourage over-reporting that would have unintentional adverse consequences, as lower-income and Black and Brown families would more likely be targeted for intrusive state involvement.

## ***ELECTORAL RIGHTS***

### **Gubernatorial Candidate Residency Requirement (H 5234, S 343)**

Arguing that consideration of the length of a gubernatorial candidate's residency in the state is an issue best left to the voters, we opposed this legislation which would impose a five-year residency requirement on any individual seeking to become a candidate for governor.



### **Denying Political Rights to “Insurrectionists” (H 5267)**

Despite the harmful impact on democracy that the events of January 6, 2021 had, we testified in opposition to a bill that would bar any individual convicted of “sedition, insurrection, rebellion or a felony in relation to such act” from voting, serving as a state employee, or being a candidate for public office. We argued that the state Constitution, not the General Assembly, sets the qualifications for voting and running for office; that the crimes leading to these denials of rights were not defined in the bill; and that the breadth of the proposal's language bore too much a resemblance – however unintentionally – to similar laws that were used to blacklist and punish individuals during the Red Scare in the 1950s.

## ***OPEN GOVERNMENT***



### **Remote Meeting Attendance for Public Body Members 65 Years and Older (H 5266, S 415)**

We opposed a bill that would allow any member of a public body who is 65 years of age or older to participate in meetings remotely. The Open Meetings Act currently allows for remote participation by public body members only under very narrow and specific circumstances, and appropriately so. We argued that passage of this bill – which would greatly expand those conditions – would undermine the accountability that is present when members of public bodies must meet, act, and confront their constituents in person.

## **MOVEMENT ON POSITIVE LEGISLATION**

Although there have been very few votes on legislation thus far, we can report on positive action and movement by the House and Senate on four bills that the ACLU or RI is strongly supporting:

- *The House unanimously passed a bill (H 5561) sponsored by Rep. June Speakman, District 68, that bars schools from accessing students' school-loaned devices, including cameras and microphones, while at home.*
- *The Senate passed a bill (S 685) sponsored by Sen. Jonathon Acosta, District 16, that would change the maximum prison sentence for a misdemeanor from one year to 364 days, which would ensure that undocumented individuals are not subject to unnecessary and harsh immigration penalties for misdemeanor offenses.*
- *The House Judiciary Committee passed legislation (H 5006) sponsored by Rep. Katherine Kazarian, District 63, that would expand abortion access to include coverage for state employees and individuals on Medicaid.*
- *The House passed a bill (H 5929) sponsored by Rep. Teresa Tanzi, District 34, that would bar employers from requiring employees to sign non-disclosure agreements that prevent them from speaking out against discrimination in the workplace.*

For more information on these and many other bills, and to read our testimony on them, visit our website at [www.riaclu.org/legislation](http://www.riaclu.org/legislation).

## NEWS BRIEFS

**FEDERAL JUDGE STRIKES DOWN STATE'S RESIDENCY RESTRICTION FOR SEX OFFENDERS**

A federal court has ruled unconstitutional a state law that makes it a crime for certain sex offenders to reside within 1,000 feet of a school, finding that the statute would require individuals subject to it to guess whether they were in compliance with it, and potentially face criminal penalties if they guessed wrong.



In a 25-page opinion, Chief U.S. District Court Judge John McConnell, Jr. held that since “neither an ordinary person nor law enforcement could understand the statutory language that attempts to define the boundaries of residences and schools,” the residency prohibition was unconstitutionally void for vagueness. ACLU of RI cooperating attorneys challenged the statute when it was first enacted in 2015, and it has been subject to a preliminary injunction barring its enforcement since then.

The law provides for measuring the 1,000 foot distance “from the nearest boundary line of the real property supporting the residence of the person to the nearest boundary line of the real property *that supports* or upon which there exists a school.” ACLU of RI cooperating attorneys Lynette Labinger and John MacDonald noted the complete lack of clarity as to what property “supporting” a school was applicable in measuring the distance — what about spaces like playing fields, playgrounds, or parking lots? In fact, the court noted, the state had given differing interpretations of what that language means over the years, and most recently argued that it applies to any real property — even if not contiguous to the school — if it is “typically used by students for school purposes,” leading to arbitrary determinations made on a case-by-case basis.

**RHODE ISLAND DMV REVISES DRIVER'S MANUAL IN RESPONSE TO ACLU CONCERNS**

The Rhode Island Division of Motor Vehicles (DMV) is eliminating a section from its driver's manual after the ACLU of RI raised numerous concerns about inaccurate and dubious information and advice it contained about motor vehicle stops. The ACLU had objected that some of the guidance appearing in an appendix in the manual “downplays the possibility of racial profiling” and misled motorists about their rights in encounters with the police. For example, despite the overwhelming evidence of racial disparities in traffic stops and searches, the manual told readers to “avoid any assumptions” that a traffic stop was based on race since “all officers know” that it is against the law. The manual also inappropriately told motorists to answer all the officer's questions and not to use their cellphones to record stops. It took three letters from the ACLU, but the DMV ultimately agreed to remove the appendix from the manual.

**BRISTOL TOWN COUNCIL REJECTS PROBLEMATIC “ADULT ENTERTAINMENT” BAN**

Agreeing with ACLU concerns, the Bristol Town Council rejected a proposed expansion of the town's “adult entertainment” ordinance that would have undermined First Amendment principles and was inappropriately aimed at LGBTQ+ individuals, including drag performances. In its testimony, the ACLU additionally argued that the proposed language was broad enough to outlaw dancing of any kind, causing a “*Footloose*-ian effect” in the Town. The Town Solicitor agreed with the ACLU's constitutional analysis and advised the Council to reject the proposed amendments, which it did.

EVENT RECAPS



**MARCH: DRAG BRUNCH & FUNDRAISER**

The Stable in Providence hosted a Drag Brunch to fundraise money for the National ACLU Drag Defense Fund. The Stable invited the Affiliate to attend and host a table. ACLU Board Chair Katherine Itacy also gave a well-received short presentation on the Affiliate’s local work protecting LGBTQ+ rights. Thank you to everyone who came out and raised funds to protect the First Amendment!

The event was so successful that The Stable has discussed the possibility of holding a block party to support the Affiliate in May. Check our website for more details once the event is finalized!

**YOUR SUPPORT has a real impact. The proof is on every page of this newsletter.**

**MAIL A DONATION**

Use the return envelope in this newsletter to mail a check made out to “ACLU Foundation of RI.” Your donation is tax-deductible, and you don’t even need a stamp!

**MAKE A GIFT ONLINE**

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

**APRIL: POSTCARDS & ICE CREAM**

Over 40 attendees gathered at the Courthouse Center for the Arts in South Kingstown, with Palagis Ice Cream Truck parked outside, to send postcards to their state Representatives and Senators in support of some key civil liberties bills being supported by the ACLU this session.

ACLU of RI Policy Associate Hannah Stern gave a short presentation on four bills the ACLU of RI supports, and Executive Director Steven Brown shared some of the “bad bills” described in this newsletter. Then, everyone put pen to paper, asking questions and discussing the bills with one another. The next day, we mailed the 189 postcards that had been written to state representatives and senators.



**WELCOMING NEW STAFF:  
ZOE CHAKOIAN, COMMUNICATIONS ASSOCIATE**

We are pleased to welcome Zoe Chakoian (she/her) as our new Communications Associate, working to make sure as many people as possible understand civil liberties in Rhode Island. A Wisconsin native who came to New England for school, Zoe has a B.A. in Media Studies, and an M.S.c. from Clark University.

Outside of work, Zoe plays violin in the Narragansett Bay Community Symphony Orchestra (NaBSCO) and is looking forward to summer weekends rollerblading and exploring more of our beautiful state.

**ACLU**  
Rhode Island

*RETURN SERVICE REQUESTED*

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**SAVE THE DATE: RI PRIDEFEST 2023**

**WHEN: SATURDAY, JUNE 17, 2023**

**WHERE: INNOVATION DISTRICT PARK, PVD**

We will be celebrating Pride Month with a table at PrideFest RI in Providence.

The ACLU has a long history at this event; in fact, it was only because of ACLU legal intervention that the first annual Pride parade was able to occur in 1976.

We invite you to visit our table, play games, and learn more about civil liberties and LGBTQ+ rights!



**SAVE THE DATE!!**