

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

RHODE ISLAND CHAPTER, NATIONAL :
ORGANIZATION FOR WOMEN, CAROLYN :
MARK, RHODE ISLAND AFFILIATE, :
AMERICAN CIVIL LIBERTIES UNION, INC. :
and STEVEN BROWN, :
Plaintiffs :

v. :

A.T. WALL, II, in his capacity as :
Director of the Rhode Island Department :
of Corrections, :
Defendant. :

C.A. No. _____

COMPLAINT

1. Plaintiff, the Rhode Island Chapter, National Organization for Women (“RI NOW”) is an all-volunteer advocacy organization with its primary functions and activities taking place within the State of Rhode Island.

2. RI NOW’s purpose is to take action to bring women into full participation in all aspects of public and private life without experiencing barriers based on gender. RI NOW advocates on behalf of women when and if it learns of unfair or inhumane treatment.

3. Core issues of concern with regard to RI NOW’s advocacy are reproductive justice and violence against women. These concerns extend to women in prison.

4. Plaintiff Carolyn Mark, is a resident of East Greenwich, Kent County, Rhode Island, and serves as the President of RI NOW.

5. Plaintiff, the Rhode Island Affiliate, American Civil Liberties Union, Inc. (“RI ACLU”) is a non-profit corporation existing under the laws of the State of Rhode Island, with a principal place of business located at 128 Dorrance Street, Suite 220, Providence, Rhode Island.

6. Plaintiff Steven Brown, is a resident of Barrington, Bristol County, Rhode Island, and serves as Executive Director of the RI ACLU.

7. Defendant A.T. Wall, II, is sued in his capacity as the Director of the Rhode Island Department of Corrections (“Defendant”).

8. The Rhode Island Department of Corrections is a state agency created to provide for the custody, care, discipline, training, treatment, and study of persons committed to state correctional institutions or on probation or parole, so that those persons may be prepared for release, aftercare, and supervision in the community.

9. This action is brought under R.I. Gen. Laws §§ 38-2-1 et seq., entitled “Access to Public Records.”

Public Records Request

10. Issues surrounding the use of restraints on pregnant women prisoners by correctional institutions are a matter of important public concern, and have been the subject of recent public debate nationwide.

11. On September 11, 2009, Steven Brown, in his capacity as Executive Director of the RI ACLU, sent a written request, pursuant to R.I. Gen. Laws §§ 38-2-1 et seq., to Defendant requesting a copy of any and all written policies and procedures promulgated by the Rhode Island Department of Corrections, relating to the use of restraints on women prisoners in custody during the time they are in child-birth-related labor, delivering a baby, or in post-delivery recuperation, including the time period when such prisoners are transported to and stay in an outside medical facility for these purposes. A copy of the written request is attached hereto as Exhibit A.

12. RI ACLU intended to share the requested documents with RI NOW so that RI NOW could have the opportunity to advocate on behalf of female prisoners with regard to the requested policies and so that RI ACLU could seek RI NOW's views regarding the effect and impact of the Rhode Island Department of Corrections' policies and procedures on pregnant women prisoners.

13. On September 28, 2009, Patricia A. Coyne-Fague, Chief Legal Counsel of the Department of Corrections, responded in writing to Mr. Brown's September 11, 2009 letter, and indicated that the request was denied because "the restraint policies at issue are not public documents." A copy of Ms. Coyne-Fague's letter is attached hereto as Exhibit B.

14. In her letter, Ms. Coyne-Fague set forth certain substantive information about the requested policies and procedures, but failed to produce any portion of those policies, including any reasonably segregable portion, as required by R.I. Gen. Laws § 38-2-2(4)(ii).

Injury to Plaintiffs

15. The documents Plaintiffs requested are public records pursuant to R.I. Gen. Laws § 38-2-2(4)(i).

16. None of the records requested are exempted from disclosure by any of the exceptions set forth in R.I. Gen. Laws § 38-2-2.

17. The Defendant's denial of access to the requested records is contrary to R.I. Gen. Laws §§ 38-2-1 et seq.

18. RI NOW and RI ACLU share an interest in reviewing and analyzing the requested Rhode Island Department of Corrections' policies and procedures and advocating for changes to them in order to better promote the health, safety and well-being of pregnant women prisoners.

19. Because Defendant has denied RI ACLU's aforementioned request for records, RI ACLU and RI NOW have been precluded from effectively advocating on behalf of women prisoners with regard to the use of restraints on pregnant women prisoners.

20. The RI ACLU and Steven Brown have exhausted their statutory administrative remedies, their request to the chief administrative officer of the Rhode Island Department of Corrections having been denied, and are entitled to all of the records requested, pursuant to R.I. Gen. Laws §§ 38-2-1 et seq.

Count One

Denial of Access to Public Records

21. Plaintiffs incorporate by reference Paragraphs 1 through 20 as if fully set forth herein.

22. Defendant's denial of Mr. Brown's request for records is in violation of R.I. Gen. Laws §§ 38-2-1 et seq.

Prayers for Relief

WHEREFORE, Plaintiffs RI NOW, Carolyn Mark, in her capacity as President of RI NOW, RI ACLU, and Steven Brown, in his capacity as Executive Director of the RI ACLU, demand a judgment of this Court:

- a. Declaring that the requested records are public records;
- b. Ordering Defendant, A.T. Wall, III, to produce the requested documents, forthwith;
- c. Imposing a civil fine payable by Defendant A.T. Wall, III, in his capacity as Director of the Rhode Island Department of Corrections, to the Rhode Island

Chapter, National Organization for Women, Carolyn Mark, in her capacity as President thereof, Rhode Island Affiliate, American Civil Liberties Union, Inc. and Steven Brown, in his capacity as Director thereof, in the amount of \$1,000.00 plus costs, statutory interest, and attorneys fees; and

d. Such other relief as this Court deems just.

RHODE ISLAND CHAPTER, NATIONAL
ORGANIZATION FOR WOMEN, CAROLYN
MARK, RHODE ISLAND AFFILIATE,
AMERICAN CIVIL LIBERTIES UNION, INC.
and STEVEN BROWN

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