

THE ACLU OF RHODE ISLAND: 60 YEARS OF VIGILANCE

If you're thinking this cover page looks different, that is because it is! All the news you're used to reading can be found by turning the page. But before you do that, we want to highlight that 2019 is our 60th Anniversary fighting for the rights of all in the Ocean State. In 1959, the ACLU of Rhode Island began as a few passionate civil libertarians sitting around a kitchen table. In the ensuing 60 years, we have grown into the leading defender of civil liberties in the Ocean State and an active advocate for justice and equality.

We have had many groundbreaking victories over the years, and these victories have had far-reaching implications beyond the lives of those whose rights were violated – and beyond the boundaries of our state.

For a closer look at our small but mighty presence, we invite you to take a look at the graphic on the left. The numbers speak for themselves. Your ongoing support makes this all possible. We hope you will add to that support by participating in our upcoming celebration. From all of us here at the ACLU of RI, thank you.

THE ACLU OF RI: BY THE NUMBERS



6,134 ACLU members in the Ocean State. More members = **more** lobbying power.

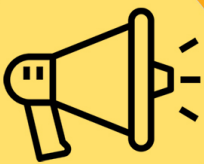
339 Number of bills we lobbied on in 2019.

Cases in defense of civil liberties since 1973. (Records before then are spotty.)

662

Number of civil liberties **lawsuits** pending at any given time.

35



282 Average annual number of civil liberties complaints that we **actively pursue**.

3,393 Average requests for assistance every year.

Percent of our lawsuits that are handled by **cooperating attorneys**.

100%

Total staff.

4



ACLU of RI 60TH ANNIVERSARY GALA FRIDAY, OCTOBER 18, 2019

Gala **sponsorship** opportunities and tickets available. Learn more at www.riaclu.org.

Want to place an ad in the 60th Anniversary Gala Program Book? See the form on page 7 of this issue.

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FROM THE DESK OF THE EXECUTIVE DIRECTOR

This year marks our 60th Anniversary fighting for the rights of all in the Ocean State. With this in mind, I invite you to join us at our 60th Anniversary Gala on Friday, October 18, 2019. There, we will honor our robust history, and more importantly, the funds we raise will enable us to continue to defend civil liberties for the challenging years that lie ahead.

You see, despite our groundbreaking victories over 60 years, the current climate in Washington has demanded more from us than ever before. The effects of the federal government's mind-bogglingly unjust policies are felt everyday by people at the state and local level. Sometimes that means people like you or me – but it usually means the most vulnerable among us. And the challenges to those policies must start with us.

Your attendance at our Gala will help us meet these growing challenges. Please join me there. If you can't, I hope you'll consider taking out an ad or making a special donation. Thanks for all your support.

--Steven Brown

ACLU FOUNDATION of RHODE ISLAND

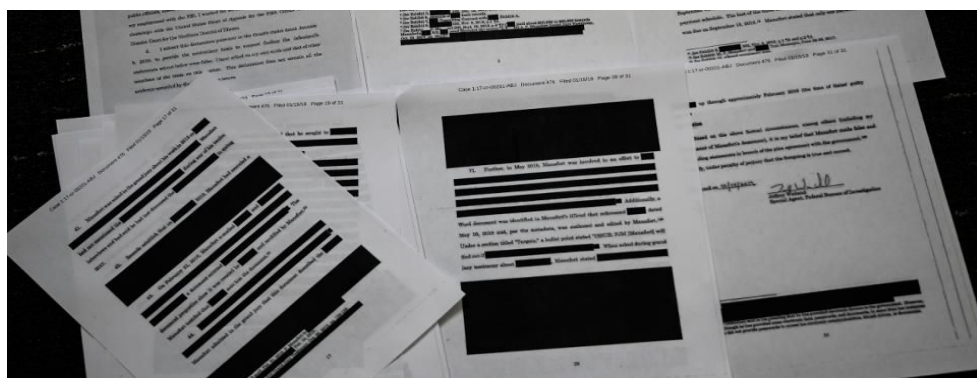
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OPEN GOVERNMENT LITIGATION NEWS

AFTER ACLU INTERVENTION, ATTORNEY GENERAL REVERSES FORMER AG KILMARTIN, RELEASES DOCUMENTS IN GOOGLE SETTLEMENT FUNDS CASE

Former state Rep. Patricia Morgan has prevailed in her quest for public documents pertaining to past Attorney General Peter Kilmartin's expenditure of \$50M in "Google settlement" funds. Initially, Kilmartin's office responded to Morgan's request by releasing documents with thousands of questionable redactions. Kilmartin also used her request to stake out the position that any document labeled a "memorandum" was exempt from public disclosure. After the ACLU intervened in court on Morgan's behalf, current RI Attorney General Neronha reviewed all of the redacted documents that had been provided her and agreed to release many in unredacted form. He also agreed to release all memoranda, as well as purchase order and invoice numbers, the initial redaction of which had made it almost impossible for Morgan to track purchases made with the funds. Neronha's office also agreed to refund \$3,750 in copying and retrieval costs that Morgan had been required to pay last year.



ACLU SUIT PROMPTS PROVIDENCE SCHOOL DISTRICT TO RELEASE RECORDS DOCUMENTING FEDERAL LAW VIOLATIONS

The ACLU and R.I. Legal Services filed a successful Access to Public Records Act (APRA) lawsuit against the Providence School District (PSD), leading to the release of a document delineating numerous violations of the rights of English Language Learner (EL) students by the district. The repeated violations led to an August 2018 settlement agreement between the PSD and the US Department of Justice. In March 2019, however, the district refused to release a copy of the DOJ's fact-finding document in the case, citing exemptions in the open records law that the ACLU argued were inapplicable. Two weeks after ACLU attorney Ellen Saideman and RILS attorney Veronika Kot filed the open records suit, the school district released the document, which contained a blistering critique of PSD's treatment of EL students. Among other things, the memo found unlawful an EL teaching model endorsed by both PSD and the state Department of Education that the ACLU and RILS are currently challenging in a separate case. With the release of the DOJ memo, RILS and the ACLU expressed hope for a reversal of that endorsement by the state.

OPEN GOVERNMENT (cont'd)

WOONSOCKET AGREES TO MAKE POLICE MISCONDUCT RECORDS PUBLIC

Responding to an Access to Public Records Act (APRA) complaint filed by the ACLU, the Woonsocket Police Department has released documents related to internally-generated complaints of police misconduct that it previously declared confidential. Earlier this year, the ACLU filed a formal complaint with the Attorney General when the department refused to provide the records in response to an APRA request from the RI Accountability Project. As a result of the City's change of position, ACLU of RI cooperating attorney James Cullen is withdrawing the pending complaint.



In two major APRA lawsuits filed in past years by the ACLU, the R.I. Supreme Court ruled that the public is entitled to obtain final reports of investigations of police misconduct. Both cases happened to involve requests for reports involving citizen-generated complaints. A 2017 APRA advisory opinion by the Attorney General's office, *Piskunov v. Town of Narragansett*, seized upon that fact to hold that the Narragansett Police Department could withhold their final reports of misconduct investigations if they were initiated internally, rather than via citizen complaints. Now that Woonsocket has agreed to release the documents, Pawtucket remains the only other police department besides Narragansett that relies on *Piskunov* to keep these records secret. The ACLU is presently in court suing Pawtucket over that, and in the appeal to the RI Supreme Court, ACLU attorney Cullen has asked for a rejection of the *Piskunov* analysis.

RESEARCH: PROVIDENCE SCHOOL OFFICIALS MUST ADDRESS "ALARMING" RACIAL DISPARITIES IN DISCIPLINE

Citing a "disproportionate use of disciplinary action and suspensions against students of color," the ACLU has called upon Providence school officials to address this longstanding problem. In a letter to Acting Superintendent Frances Gallo and the school board, the ACLU pointed to its review of recent disciplinary data to document severe racial disparities in out-of-school suspensions, especially for minor misconduct such as "insubordination" and "disrespect."

Among the findings:

- Those most affected by this disparity are Black students in grades K-5.
- The vast majority of suspensions were for minor offenses such as "disorderly conduct," "disrespect," or "use of obscene language."
- Disturbing disparities also exist for students with disabilities.

ACLU calls on officials to combat these problems by:

- Barring vague infractions as grounds for out-of-school suspension.
- Ceasing suspensions for grades K-5 unless the conduct is a danger to safety of students or staff.
- Providing (required) reports to RIDE on corrective actions taken to address these disparities.

In the coming weeks, the ACLU plans on issuing a detailed report examining the school suspension data for every school district in the state.

COURT REJECTS FEDERAL GOVERNMENT'S EFFORT TO EXTRADITE MAN LIKELY TO BE TORTURED IF RETURNED TO HIS COUNTRY

In an important decision for the rights of immigrants, a federal judge in RI has ordered the release of Cristian Aguasvivas, currently held at the Wyatt Detention Center, whom the US State Department is trying to extradite back to the Dominican Republic (DR) despite an immigration board's finding that he would likely be tortured if he returns. The DR seeks the return of Aguasvivas for the alleged fatal shooting of a police officer. Aguasvivas claims he is innocent and the victim of rampant police corruption, and in 2016, he sought asylum in the US. The ACLU had filed a "friend of the court" brief in the case and argued before U.S. District Judge John McConnell, Jr. that the State Department's position violates the Constitution and the Convention Against Torture, an international human rights treaty of which the US is a signatory. In his ruling, Judge McConnell agreed that extraditing Aguasvivas would violate the Convention treaty, and he ordered Aguasvivas's release from custody. The US State Department has appealed the ruling, and a stay of the court decision while the appeal is pending is expected.

ACLU DEFENDS BLOGGER SUBJECTED TO "GAG ORDER" AFTER POSTING BLOG ABOUT HOPKINTON RESIDENT



In a case raising important First Amendment issues for the Internet age, the ACLU of Rhode Island has taken on the defense of a controversial Massachusetts blogger who was ordered by a Rhode Island Superior Court judge to remove all blog content about a person who sued him for libel.

Aidan Kearney runs a blog on www.turtleboysports.com. In February, he reposted a video and numerous Facebook comments originally posted by Hopkinton resident Kathryn Narcisi. He did so after Narcisi's Facebook postings requested media coverage of an incident where she claimed a hospital refused to treat her for an autoimmune disease. Kearney mocked her request with a blog titled, "Failure Swift Gets Kicked Out of Warwick's Kent Hospital for Faking Sickness, Posts Facebook Video Whining in Lobby, Tries to Get National News Attention Despite Long History of GoFundMes." Narcisi then filed a libel lawsuit claiming the blogger "defamed and discredited" her. At a court hearing held without Kearney's knowledge, RI Superior Court Judge Susan McGuirl issued a temporary restraining order requiring Kearney to remove all references to Narcisi from his website. After learning about the gag order, Kearney contacted the ACLU, which agreed to provide legal assistance. ACLU of RI cooperating attorney Lynette Labinger has since removed the case to federal court and filed a formal motion to dismiss Narcisi's lawsuit.

ACLU CHALLENGES CENTURY-OLD LAW DECLARING INMATE LIFERS "CIVILLY DEAD"

The ACLU of RI is challenging the constitutionality of a 110-year-old statute that declares inmates serving life sentences to be dead with respect to "all civil rights." The lawsuit is on behalf of two ACI inmates who are barred from pursuing legal action against the Department of Corrections because of the "civil death" law. The law provides that any inmate serving life, including those eligible for parole, "shall, with respect to all rights of property, to the bond of matrimony and to all civil rights and relations of any nature whatsoever, be deemed to be dead in all respects, as if his or her natural death had taken place at the time of conviction." No other state enforces such a law.



One of the plaintiffs barred from suing under the law claims a DOC nurse recklessly exposed him to blood-borne pathogens by administering insulin from a contaminated vial of medication. The lawsuit, filed by ACLU attorneys Sonja Deyoe and Lynette Labinger, seeks a court order declaring the civil death law unconstitutional on numerous grounds, including violation of inmates' right to petition the government for a redress of grievances.

LEGAL BRIEFS

ACLU Appeals Ruling in Providence Student Housing Case

The ACLU has asked the R.I. Supreme Court to overturn a Superior Court ruling that upheld the constitutionality of a problematic Providence housing ordinance that prohibits more than three “college students” from living together in certain types of housing. In its February 2018 decision, the RI Superior Court acknowledged that the ordinance “seems nonsensical,” but nonetheless found the ordinance constitutional.



Jury Awards N. Smithfield Resident \$20K in Damages for Unlawful 6-Year Seizure of Weapons by Police

A federal jury awarded \$20,000 in damages to Jason Richer for the violation of his due process rights when the North Smithfield Police Department refused, for six years, to return weapons they had seized from him, and instead demanded that he obtain a state court order to get his guns back. Richer had lawfully owned the weapons and was never charged with a crime. In previously ruling on the suit filed by ACLU attorneys Thomas Lyons III and Rhiannon Huffman, U.S. District Judge John McConnell, Jr. agreed that the Town had an obligation to provide a process – other than filing a formal lawsuit – that Richer could use to get his weapons back. The verdict is important because the ACLU has been forced to sue at least one other RI municipality over a similar policy.



Settlement Reached in Lawsuit Over Smithfield Anti-Medical Marijuana Ordinance

The ACLU favorably settled a lawsuit against the Town of Smithfield for enacting an ordinance that undermined RI’s medical marijuana law by severely restricting patients and caregivers from growing the medication. Under the settlement agreement, the Town has agreed to repeal the ordinance and pay attorneys’ fees. After the Court issued an injunction barring enforcement of the ordinance the ACLU entered into settlement negotiations with the Town. With the election of a new Town Council this year, a settlement was finally reached. The ACLU

is hopeful it will deter other municipalities from burdening patients – and taxpayers – with similar unlawful ordinances.

ACLU Brief Challenges Police Access to Drug Database Without Judicial Warrant

In a case with major implications for medical privacy rights, the ACLU of RI has joined other New England ACLU Affiliates in filing a “friend of the court” brief arguing that law enforcement must obtain a judicial warrant to access information from state prescription drug monitoring databases (PDMPs). The appellate brief supports New Hampshire’s resistance to an administrative subpoena it received from the U.S. Drug Enforcement Administration, seeking two years of information from the state’s PDMP about a patient. New Hampshire law allows police access to PDMP information only with a warrant, and when the administrator of the state’s PDMP refused to turn over the records to the DEA without one, the federal government sued the state. New Hampshire’s actions stand in stark contrast to Rhode Island. In 2017, despite opposition from a coalition of groups, the General Assembly repealed a law requiring law enforcement to obtain a warrant to access the state’s PDMP. If New Hampshire prevails in this case, it would likely call into question the constitutionality of the Rhode Island law.



NEWS BRIEFS

ACLU Applauds Education Ruling Stemming Out-Of-School Suspensions

In an important decision enforcing a 2016 law aimed at reducing out-of-school suspensions, the Council on Elementary and Secondary Education has upheld a RI Department of Education (RIDE) decision that the Barrington School District improperly issued an out-of-school suspension to a middle school student. ACLU of RI attorney Aubrey Lombardo represented the student in the appeal after Barrington contested the initial RIDE decision. In originally overturning the suspension in January, the RIDE hearing officer noted that there was no evidence that the student, who was overheard allegedly talking about school shootings, had been disruptive.



RIDE also criticized the school for not notifying the parents before police interrogated the minor in school. In an effort to address the widespread overuse of suspensions by schools, a 2016 law, relied upon by RIDE in the case, bars such suspensions for non-disruptive misbehavior. Despite the law, data continues to show high rates of out-of-school suspensions for minor infractions. (See article, Page 3.) Students suspended from school are up to ten times as likely as other students to drop out or repeat a grade. Perhaps most troubling, suspended students are significantly more likely to become involved with the juvenile justice system.

SK School Committee Approves Resolution Against Cooperating with ICE without Judicial Warrant

The South Kingstown School Committee has unanimously approved an ACLU-drafted resolution clarifying that SK schools will not cooperate with Immigration and Customs Enforcement (ICE) without a valid judicial warrant that has been verified by the district superintendent and its legal counsel. A similar policy was approved by the Central Falls School District in June 2017. Although an ICE policy purports to restrict enforcement actions in “sensitive locations” such as schools, churches and hospitals, that policy has not been uniformly followed, and immigration enforcement actions across the nation have been unpredictable.

60TH ANNIVERSARY EVENTS



PAST

LEGISLATIVE WRAP UP - July 24

Thanks to everyone who joined us for the ACLU of RI Legislative Wrap-Up! Special thanks to Rep. Edith Ajello and Rep. Liana Cassar - for the insightful commentary - and to Knead Doughnuts, Trader Joe's, Wildflower Vegan Bakery, Seven Stars Bakery and The Coffee Exchange for providing the snacks!

UPCOMING

SPOKEN WORD on the 1ST AMENDMENT - Saturday, September 28, 7-9pm

Hear artists and poets reflect aloud on the 1st Amendment.
AS220, 115 Empire Street, Providence, RI

LIVE MUSIC & MORE - Saturday, November 16, 6-8pm

Listen to Honey and the JAM live and witness a surprise performance by special guests.
Courthouse Center for the Arts, 3481 Kingstown Road, West Kingston, RI

For more info on our upcoming events, visit www.riaclu.org/events.

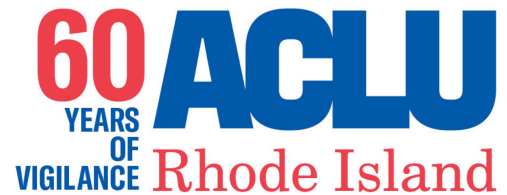
More info on our upcoming 60th Anniversary Gala - Friday, October 18 - on the front and back covers of this issue!

ACLU OF RHODE ISLAND BOARD ELECTIONS

If you are interested in serving on the ACLU of RI's Board of Directors, let us know, and we will provide you additional information about Board Member duties and responsibilities. Send your name and contact information to us at info@riaclu.org by October 8th, and your name will be considered by the Affiliate's nominating committee when it meets in the fall.

60th ANNIVERSARY PROGRAM BOOK

Advertisement Form



Send us your camera-ready art: Email digital artwork .gif, .jpg, or .pdf files) to info@riaclu.org or mail hard copies to the address below – **OR compose a message and have us design your ad for you.**

Please send this form along with your check made payable to **ACLU Foundation of Rhode Island** (or provide your credit card info below) to:

128 Dorrance Street, Suite 400
Providence, RI 02903

Questions? Call the ACLU office at 831-7171.

DEADLINE:
Please submit your ad by
October 1, 2019

NOTE: The grid below represents the *new ad sizes (in inches) and corresponding rates:*

Full page: 7 ½ x 10

<p>1/2 page: 7 ½ x 5</p>			
<p>1/4 page: 3 ¾ x 5</p>			<p>1/8 page: 3 ¾ x 2 ½</p>
			<p>Ad Rates 1/8 page: \$100 1/4 page: \$150 1/2 page: \$250 Full page: \$400 Supporter Line: \$40</p>

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60TH ANNIVERSARY GALA

PLEASE JOIN US!

Gala sponsorship opportunities and tickets
available. Learn more at www.riaclu.org.
Program Book ad form on page 7 of this issue.

FRIDAY, OCTOBER 18, 2019
Cocktails at 5:30pm; Gala at 6:30pm

THE GRADUATE HOTEL
11 Dorrance Street | Providence, RI