



ACLU FILES CLASS ACTION LAWSUIT ON BEHALF OF FAMILIES TORN APART BY ICE

The ACLU has filed a class action lawsuit challenging the Trump administration's pattern of separating married couples and families pursuing lawful immigration status. The lead plaintiff in the lawsuit is RI resident and mother Lilian Calderon, who was recently released from detention as the result of earlier ACLU legal action.

Ms. Calderon has lived in this country since she was three years old, is married to a U.S. citizen and has two young children. In January, she appeared at the local U.S. Citizenship and Immigration Services (CIS) office in Johnston with her husband for an interview designed to confirm their marriage, the first step in seeking to become a lawful permanent resident. Immediately after the interview, though, she was arrested by Immigration and Customs Enforcement (ICE) and taken to a Boston detention facility where she was held for nearly a month until the ACLU sued for her release.

A TALE OF TWO AGENCIES: ICE vs USCIS

The class action lawsuit arises from incompatible actions of two DHS agencies: U.S. Citizenship and Immigration Services (CIS) and ICE. In 2016, CIS enacted regulations that allows certain noncitizen spouses of U.S. citizens to pursue lawful immigration status while in the United States with their families. The express purpose of this process is to protect U.S. citizens and their spouses from extended – and potentially indefinite – family separation. Although these regulations remain in effect today, ICE has recently adopted a policy and practice of detaining and seeking to remove individuals who are pursuing this process. In fact, ICE has admitted that seven individuals, including Lilian Calderon, were arrested while seeking permanent residency at a Massachusetts or Rhode Island CIS office in January 2018 alone.

The amended lawsuit is an effort to protect all other similarly situated noncitizen spouses from detention and deportation while pursuing the government's pathway for lawful immigration status. In January, it was revealed that ICE had arrested seven people like Ms. Calderon at immigration offices in MA and RI, often immediately following interviews conducted by CIS to help them become legal residents.

At an extended federal hearing in late May, Thomas Brophy, ICE's Boston field office director, testified before US District Court Judge Mark Wolf that he had ordered an end to the arrests shortly after the ACLU's lawsuit on behalf of Ms. Calderon. Unfortunately, official ICE policy remains unclear, and as such, the fate of many immigrant families seeking lawful status remains uncertain.

The judge sharply criticized Brophy and other ICE officials for violating the law in the way they detained Calderon and the other plaintiffs. The judge has barred ICE from taking any action against Calderon or the other plaintiffs while the suit is pending. The case is proceeding.

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FROM THE DESK OF THE EXECUTIVE DIRECTOR

Taken as a snapshot in history, little that we are witnessing is new. For almost 60 years, the ACLU of RI has been made aware of rights violations everyday – and only a small percentage of the complaints we’ve received in the past year and a half are the result of the current federal government’s disregard for the *Bill of Rights*.

Next to national news reports of mass deportations, many rights violations may seem inconsequential. But they are far from it, because left unchecked, the result is an erosion of all of our fundamental freedoms – and the slow undermining of principles that make up our democracy.

This is especially true of government transparency, which is vital to a properly functioning democracy. That is why, in addition to explaining the ACLU’s class action lawsuit on behalf of Lilian Calderon, we’ve described ICE’s questionable reasoning for detaining her. It’s why we continue to push for answers in the 38 Studios debacle, and why we are once again lobbying to expand the state’s open records law. (Keep filing those APRA requests!)

Thank you for helping us stand up for a government of the people, for the people and by the people.

--Steven Brown

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ICE CITES “LACK OF CHILD CARE ISSUES” & “AVAILABILITY OF BED SPACE” AS REASONS FOR DETENTION

Pointing to a pattern by ICE of detaining individuals like Calderon, and then releasing them once court involvement ensued, U.S. District Judge Mark Wolf ordered ICE to provide further information about her detention and release. ICE gave three reasons: (1) it believed a 2002 order of removal — issued when she was a young teenager and which she had been taking steps to address since 2016 — rendered her a flight risk, (2) “availability of bed space”; and (3) “lack of child care issues.”

Although ICE claimed that Calderon was detained because she was considered a “flight risk,” it went on to state that she was released because of her “ties to the community.” Judge Wolf has taken ICE to task for its conflicting and troubling response.

RI DEPT OF ED FILES FORMAL REGULATIONS TO PROTECT TRANS STUDENTS



to protect the civil rights of these students, who face unique discrimination in the school setting.

The new regulations require that districts’ policies be consistent with state and national best practices, and “address, at a minimum, such issues as confidentiality and privacy, discipline and exclusion, staff training, access to school facilities and participation in school programs, dress codes and official school records and use of preferred names and pronouns.” The ACLU is monitoring school districts in the state to ensure that those without a compliant policy implement one by the July 1, 2018 deadline set by RIDE.

CALDERON LEGAL TIMELINE

- JANUARY: Calderon detained by ICE while seeking lawful immigration status via CIS.
- FEBRUARY: ACLU files lawsuit on Calderon’s behalf. Calderon released following ACLU legal action. ICE offers no explanation, files motion to dismiss ACLU lawsuit. Judge demands answers from ICE about Calderon detention. ICE cites “flight risk” as reason for detention, “ties to community” as reason for release.
- APRIL: ACLU files class action lawsuit against ICE on behalf of Calderon and others like her.

The RI Department of Education (RIDE) has adopted regulations requiring all RI school districts to adopt a comprehensive policy outlining the rights of transgender and gender non-conforming students. RIDE’s regulations are the result of an effort spearheaded by the ACLU of RI

LEGAL BRIEFS: OPEN GOVERNMENT

Groups Challenge Court's Ban on Access to Jury in Murder Case

The ACLU of RI and four media organizations submitted a “friend of the court” brief to contest Superior Court Associate Justice Netti Vogel’s orders blocking the release of the juror list, and barring members of the public from contacting the jurors, in a completed, high-profile murder case. The brief, submitted by ACLU volunteer attorneys Thomas W. Lyons and Rhiannon Huffman, supports a lawsuit filed by the *Providence Journal*, which was rebuffed in its effort to obtain the jury list after Jorge DePina was convicted of the second-degree murder of his daughter. The ACLU’s brief cites numerous state and federal court decisions for the proposition that the public and the media have a First Amendment right to interview willing jurors after a verdict and to obtain the list of jurors. The brief also argues that the Court’s orders violated due process because the judge implemented them without any notice or opportunity to be heard.



ACLU and Open Government Groups Submit Brief for Release of 38 Studios Records

Along with four other open government groups, the ACLU submitted a “friend of the court” brief in the RI Supreme Court in support of Governor Gina Raimondo’s appeal for the release of the grand jury records in the 38 Studios proceedings. Submitted by ACLU cooperating attorneys and RWU Law School professors Jared A. Goldstein and Andrew Horwitz, the brief argues that “the fundamental right of the people to know about the operations of their government” far outweighs the standards generally barring disclosure of grand jury proceedings. The brief supports years of attempts on the part of open government advocates, the public, and even many in RI government to shed light on the case. Last year, Superior Court Presiding Justice Alice Gibney rejected a petition to authorize release of the records. Since that time, the General Assembly has passed a law in support of their release.

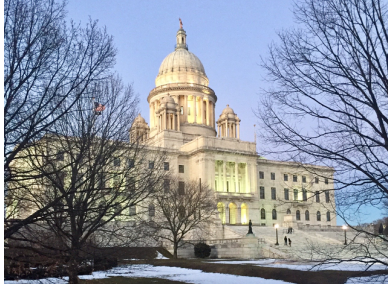
GOVERNOR RAIMONDO ISSUES NET NEUTRALITY EXECUTIVE ORDER

In a critical step towards protecting free speech on the internet, Governor Gina Raimondo has issued an executive order requiring businesses that contract with the State to abide by net neutrality rules. The order was issued in response to requests from a number of groups, including the ACLU of RI, for gubernatorial intervention.

Until recently, federal rules mandated that internet service providers supply non-discriminatory access to the internet and prohibited them from picking and choosing the information made available or “throttling” the speed of delivery to specific sites. Unfortunately, the FCC recently voted to dismantle these critical rules, so the onus now rests on states to ensure that the internet is treated like the public utility that it is. Bills supported by the ACLU have also been introduced in both the House and the Senate to reinforce the Governor’s executive order and ensure State contractors abide by net neutrality rules.



2018 LEGISLATIVE PREVIEW: ANTI-CIVIL LIBERTIES LEGISLATION



We are nearing the end of this year's legislative session, and the ACLU of RI has already weighed in on hundreds of bills. In our last newsletter, we discussed some of the positive civil liberties legislation under consideration; this issue highlights bills that pose some of the greatest threats to your rights. This is just a sampling, and, with a few more weeks to go, the worst legislation may have yet to be introduced. For updates and more detailed information on these and other bills, visit our website at www.riaclu.org/legislation.

PRIVACY

Cell Phone Tracking (S 2291, H 7451)

This Attorney General legislation would weaken a 2016 location tracking law which requires that law enforcement obtain a warrant before requesting cell phone location information. The bill's amendments would erode cell phone users' privacy.

Maternal Mental Health (H 7695)

This bill would require women be given a mental health screening before being discharged from a birthing facility. While maternal mental health disorders are a serious issue that demand attention, this particular bill would set a troubling precedent for privacy and treatment of new moms in Rhode Island. No fathers are required to undergo such a screening before bringing their child home.

Adult Immunization Registry (H 7882, S 2530)

This bill would require inclusion of all adult immunization records and a large swath of other medical information in a DOH database unless the person opts out. The DOH has already shown that it does not consider patient confidentiality a priority, evidenced by their 2017 support of a law giving police access to the Department's prescription drug monitoring database without a warrant. The ACLU believes that when it comes to important medical information, it should be up to the patient to opt in, rather than impose the burden on them to opt out.

Third Party Access to Drug Prescription Database (H 7867)

In a similar vein, this bill would create another exception to the confidentiality of the state's prescription drug database, allowing health insurers, workers' compensation insurers and HMOs, among others, to access private prescription information. A database of private medical information should not become a general warehouse available to third parties.

CRIMINAL JUSTICE

Drug Homicide (H 7715, S 2279)

This troubling Attorney General bill, opposed by dozens of medical professionals and organizations, would impose up to a life sentence on any person who provides an unlawful controlled substance to a



person, which results in that person's death. This legislation would have no meaningful impact on the larger drug trade, but would lead to harsh sentences on low-level drug dealers and drug-addicted individuals.

DUE PROCESS

"Red Flag" Gun Law (H 7688, S 2492)

This legislation, introduced in the wake of the tragic school shooting in Parkland, Florida, would remove firearms, via an "extreme risk protection order" (ERPO), from individuals who pose a "significant danger of causing personal injury to self or others." While the ACLU lauded this effort to reduce gun violence, we raised serious concerns about its potential impact on basic due process rights. After considering the ACLU's extended critical analysis of the legislation (which is available on our website), bill sponsors made numerous amendments to the legislation to address many of the ACLU's concerns.

FIRST AMENDMENT

“Revenge Porn” (H 2452, S 2581)

This misnomered legislation would make it a crime to electronically transmit nude or sexually explicit images without the subject’s consent, regardless of the sender’s intent. The ACLU has long opposed this bill since it could criminalize publishing newsworthy items, such as some of the photos from Abu Ghraib. In 2016 Governor Raimondo vetoed the legislation on constitutional grounds, but now supports the bill after some minor revisions were made. Those changes, however, did not address the ACLU’s First Amendment concerns. The bill is expected to make its way to the Governor’s desk.

STUDENT RIGHTS



Arming Campus Police (H 7938)

Under this bill, all public college campus police would be armed, even if against the wishes of the university. Such a

requirement will not only affect academic freedom, but the introducing of weapons to college campuses brings the very real danger of accidental discharges and tragic misunderstandings.

School Security (H 7919, S 2774, S 2796)

These bills, seeking to improve school security, would impose law enforcement measures on the school setting and require school resource officers (SROs) in every school, leading to the overcriminalization of youthful behavior. We increasingly see the use of SROs to intervene in routine school discipline, having a detrimental effect on learning and school safety.

CIVIL LIBERTIES ADVOCACY TOOLKIT

Concerned about a vote on a particular issue? Contact your legislators!

Visit www.riaclu.org/legislation and click on ADVOCACY TOOLKIT for more information on legislative advocacy and ways you can get involved.

To read ACLU of RI testimony on the bills above, and for more info on legislation impacting civil liberties, visit www.riaclu.org/legislation.

VOTING RIGHTS

Write-in Candidates (H 7729, S 2757)

This legislation would eliminate the counting of write-in votes for persons who have not filed in advance a “declaration of intent.” Voters should have the right to have their votes tallied, even if it is for a losing or absurd cause. Whatever one of thinks of the value of write-in votes, they are a valid exercise of a person's individual right to vote.



RIGHTS OF EX-OFFENDERS

Background Checks

Numerous bills introduced this session would expand the use of background checks and undermine the “Ban the Box” law that prohibits employers from asking about an applicant’s criminal record at the time of application. S-2281, for example, would disqualify many otherwise well-suited individuals from working in supervisory



positions as contractors for an enormous list of offenses entirely unrelated to the profession. Other bills, such as H-7790, go so far as to require criminal record checks for food truck drivers!

Sex Offender Registration and Notification Act (SORNA) (H 7541, S 2586)

Even after serving their time, persons convicted of sex offenses remain subject to onerous registration and notification requirements. This legislation would make them even harsher. By expanding and complicating the registration requirements, the new provisions would become a trap for the unwary. People who have done their time will find themselves subject to serious criminal penalties for failing to comply with technical requirements of the registration statute, and these burdens will fall especially hard on the homeless.

NEWS BRIEFS

ACLU Appeals Court Ruling in Providence Student Housing Case

The ACLU has appealed to the R.I. Supreme Court 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 areas of the city. Although the Superior Court decision ultimately ruled against the students and found the ordinance constitutional, the Court acknowledged “strong reservations concerning the effectiveness” of the ordinance. In appealing the decision, the ACLU maintains that the ordinance is discriminatory and ineffective in its stated purpose of improving neighborhoods and violates the plaintiffs’ rights to due process and equal protection of the law.



Parole Board Makes Positive Changes to Juvenile Sentencing Standards

The RI Parole Board has revised its guidelines to give more thorough consideration to offender age, maturity and other factors in deciding whether to parole offenders convicted as juveniles. In cases where parole is denied, the board also voted to require reconsideration within three years. The ACLU has argued for years that juveniles should be treated differently when it comes to sentencing. Numerous studies confirm that juvenile offenders act impulsively and are very capable of rehabilitation.

Citing Free Speech Concerns, ACLU Opposes Proposed Airport Advertising Restrictions

The ACLU of RI expressed strong opposition to proposed regulations that would restrict the types of advertising allowed at T.F. Green Airport. Proposed by the Rhode Island Airport Corporation (RIAC), the quasi-public agency responsible for the state’s airports, the regulations would expand RIAC’s ability to ban ads that promote or endorse “political positions,” feature certain religious symbols, or even just mention the TSA. More than fifteen years ago, the ACLU filed a lawsuit against RIAC on behalf of the RI Brotherhood of Correctional Officers when they were prohibited from running an ad critical of a statewide “community corrections” program. In that instance, the ad was ultimately allowed to run.



Civil Rights Groups Respond to Latest Traffic Stop Findings

The latest study of traffic stops in RI has once again found troubling racial disparities. The report, prepared by Central Connecticut State University researchers, was in response to a 2015 state law reinstituting the collection of traffic stop data in response to concerns about racial profiling. This latest report found, as previous studies had, that black and Latino drivers are more likely than white drivers to be stopped, are more likely to be searched once stopped – but less likely to be found with contraband. The CCSU report singled out four

police departments and one state police barracks for additional scrutiny because of particularly high racial disparity rates. The ACLU was among a group of community stakeholders who have advised the planning for the study.

Providence School Board to Require Criminal Record Checks for Parent Volunteers

Despite ongoing opposition from the ACLU, the Providence School Board appears likely to approve a volunteer policy that will require criminal background checks for parents even if they will not have unsupervised contact with students. The policy, which is more expansive than mandated by state law, will also require parents to pay for their own criminal record check. The ACLU has argued that this policy will unnecessarily discourage parents from volunteering to the detriment of both children and schools. Earlier this year, the ACLU shared a revised policy with the committee and urged its consideration, to no apparent avail.



BEHIND THE SCENES: ROSA PARKS HOUSE PROJECT EXHIBITED, THANKS TO ACLU HELP

Thanks to ACLU intervention, the Rosa Parks House Project was on display for two months at the WaterFire Arts Center in Providence. A project by artist Ryan Mendoza, the installation is a reconstructed house once owned by Rosa Parks' brother. After purchasing the house from Parks' niece, Mendoza shipped the house to Berlin where it was displayed for more than a year and designed to spur discussion about Parks' life and the legacy flowing from the discrimination she faced.

Brown University's Center for the Study of Slavery was slated to showcase the house as part of a civil rights exhibition, but after being threatened with a lawsuit over the house's authenticity by an organization that owns the rights to Parks' name, Brown abruptly cancelled the project.

In response, the Nash Foundation, which had given Brown \$45,000 to display the house, summed up the situation: "Brown at the slightest whiff of a potential legal problem has shut down this exhibit....and is now demanding that [it]...be sent back to Germany." After hearing from Mendoza and from Waterfire's Barnaby Evans, the ACLU agreed that the exhibit was protected by the First Amendment and offered to represent them should any litigation ensue if they exhibited the art project in place of Brown. Confident in that knowledge, Waterfire and Mendoza obtained funding to exhibit the project, which had great reviews – and no lawsuit. That this great art project was allowed to move forward was due to the legal assistance provided by ACLU volunteer attorney Alexander Chiulli.



A QUESTION FOR YOU:

Q. UNTIL ACLU OF RI INTERVENTION TWO YEARS AGO, WOMEN APPLICANTS TAKING THE BAR EXAMINATION WERE NOT ALLOWED ANY ACCOMMODATIONS TO DO WHAT?

Thank you to everyone who made it a full house and tested their civil liberties knowledge at our recent trivia night at The Brass Monkey! A great time was had by all. Stay tuned for the next one!

A: Breastfeed



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RI PRIDE FEST

JOIN US!

WHEN: JUNE 16, 2018

WHERE: SOUTH WATER ST

We will be celebrating Pride Month with a table at Pride Fest 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, learn more about civil liberties and play some games to win prizes! If you want to volunteer to help with our table, call us at (401) 831-7171.

TUNE IN TO OUR CABLE SHOW: "RIGHTS OF A FREE PEOPLE"

STATEWIDE:

Channel 13 (Channel 32 on Verizon FIOS)

Tuesdays 10:00 pm

Fridays 3:30 pm

PROVIDENCE/NORTH PROVIDENCE:

Channel 18 (Channel 38 on Verizon FIOS)

Wednesdays 9:00 pm

IS OUR INFO FOR YOU CORRECT?

Please take a look at your address label. Is the information listed correctly? If not, please contact our office so we can correct it:

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