

ACLU SUES STATE POLICE FOR RETALIATING AGAINST RELUCTANT INFORMANT

The ACLU of Rhode Island has sued the RI State Police (RISP) for abusing their power by retaliating against Marissa Lacoste, a Warwick resident who declined to serve as an informant for the agency in an ongoing criminal investigation. According to the lawsuit, filed in U.S. District Court by ACLU of RI cooperating attorney James W. Musgrave, RISP relied on a dubious state law to bar Lacoste from continuing to work as a cocktail waitress at Twin River Casino when she bowed out of assisting RISP as an informant.



In January 2017, Lacoste was leaving work when two RISP detectives approached her car. In response to their demand that she “hand over the weed,” Ms. Lacoste produced a bag with less than one ounce of marijuana. Despite Lacoste having committed no criminal offense – under state law, possession of less than an ounce of marijuana is not a crime – the detectives suggested that she was in serious trouble, and demanded that she accompany them to the Lincoln Woods Barracks. She complied, and while there, they told her that if she didn’t assist them with an ongoing investigation at the Casino, they could cause her to lose her job.

In February, after cooperating with RISP for a period of time, Lacoste indicated that she was no longer willing to assist. Weeks later, she learned

that RISP had requested, unsuccessfully, that the Department of Business Regulation revoke her “Service Employee” license, a permit required for those who work in the state’s gaming facilities.

Thereafter, Lacoste and a representative of her union met with her employer who informed her that the civil citation she received would not affect her employment. However, upon reporting to work for her next scheduled shift, Lacoste was stopped by Twin River security and told that she had been permanently excluded from the Casino by order of the State Police, effectively terminating her from her job. RISP had invoked a problematic state law allowing them to permanently exclude people from gaming facilities under very broad circumstances. Since that time, RISP has repeatedly denied her requests for an opportunity to be heard regarding her exclusion from the Casino.

The lawsuit argues that the statute that RISP relied upon to exclude Lacoste from the casino is unconstitutionally vague, invites arbitrary enforcement, and denies due process to affected individuals by denying them any opportunity to be heard. The lawsuit also argues that RISP’s actions against Lacoste constituted an “abuse of process” by seeking to revoke her DBR license “for an ulterior and wrongful purpose.”

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FROM THE DESK OF THE EXECUTIVE DIRECTOR

To say it has been a challenging year for civil liberties would be a gross understatement. At the federal level, an election campaign based on abhorrent ideas – sexism, racism, xenophobia – has turned into policies that are antithetical to our founding principles. And some of these have inevitably affected Rhode Islanders.

However, the sentiment I've continually expressed throughout this challenging time – something I've learned from a few decades helping protect civil liberties in the Ocean State – is that the work that we do **at the state and local level** to prevent a rollback of our rights and expand equality is absolutely critical, even more so when the federal government cannot be counted on to protect our basic freedoms. To that end, in the past year, we have redoubled our efforts and made quite an impact, as you'll see from the "Year In Review" included in this issue of our newsletter.

As we move further into this new era of civil liberties threats, I hope you will support our work here – we need you now more than ever.

– Steven Brown

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ACLU SUES JOHNSTON POLICE DEPARTMENT FOR VIOLATING FIRST AMENDMENT RIGHTS OF FORMER DETECTIVE

The ACLU of RI has sued the Johnston Police Department on behalf of retired Detective James Brady, an 18-year veteran of the force, for violating his First Amendment rights. In his role as union president of Local #307 of the International Brotherhood of Police Officers (IBPO), Brady was disciplined by the Department after he spoke to news media about a matter of public concern.

The ACLU suit, filed in U.S. District Court by ACLU of RI cooperating attorney John W. Dineen, argues that Johnston Police violated Brady's free speech rights by suspending him without pay for two days as a result of his public comments, and that the policies under which Brady was disciplined are unconstitutionally vague.

In September 2016, as union president, Brady spoke to the *Providence Journal* about a fellow police officer who had recently been terminated from the Johnston Police force. The article sought to shed light on the circumstances of the officer's termination, and suggested that, although he was ostensibly fired

for behavioral reasons, police department politics might have been at play.

In his interview with the *Journal*, Brady "expressed disappointment" over the officer's firing, stating that he was a "straightforward, all-business kind of guy," and that high-ranking officers "didn't like the way he did things."

Several days after the *Journal* ran the article, Johnston Police Chief Richard Tamburini launched an internal affairs investigation of Brady and charged him with violating multiple department policies regarding "dissemination of information" and "conduct unbecoming an officer." Brady was further advised that he brought the "Department into disrepute" and impaired the "operation and efficiency of the Department." He was given a two-day unpaid suspension.

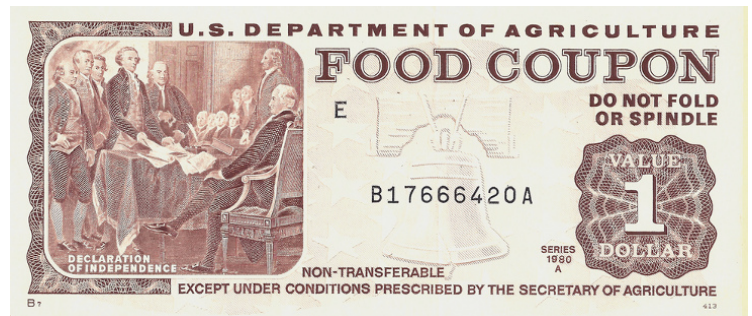
"As the union president, I had an obligation to represent my membership 100%. In the past, many presidents have been sued for lack of representation. I took my responsibility very seriously, and I paid the price for doing so," Brady said after the suit was filed. "If I had to do it all over again, I wouldn't change one thing."



UHIP: JUDGE APPOINTS “SPECIAL MASTER” TO OVERSEE COMPLIANCE; ACLU RE-STAFFS HOTLINE FOR SNAP COMPLAINTS

Rhode Islanders are still going hungry as a result of ongoing UHIP system failures, and the ACLU is continuing its battle with the state over fixing the problems. Earlier this year, a court order in the ACLU’s class-action UHIP lawsuit established a timetable mandating steady improvement in the state’s processing of SNAP applications. It also mandated that the plaintiffs be given a monthly report on the agency’s compliance with those benchmarks. Despite this, the State has repeatedly failed to meet those benchmarks, and the reporting process continues to be marred with inaccuracies and finger pointing by the State at the private vendor it hired to run the program.

The situation became so dire that in November, the ACLU returned to court to seek additional remedies in the case. As a result, the federal court overseeing the case has appointed a “special master” - retired attorney Deming Sherman – who has been tasked with enforcing the court order and ensuring the State fixes the ongoing problems with SNAP application processing.



It remains to be seen what, if any, impact the appointment will have on the timely provision of benefits. In the meantime, the ACLU of RI has re-staffed its complaint hotline which, through the earlier court order, helps expedite SNAP benefits for hungry Rhode Islanders. Although the UHIP system has caused problems for people seeking benefits in other areas, such as health care, the current lawsuit deals only with delays in processing SNAP applications. The ACLU is not ruling out the possibility of additional lawsuits seeking remedies for the other problems caused by the State’s UHIP fiasco.

ACLU RELEASES ANALYSIS OF RECENT POLICE SHOOTING; SAYS MANY QUESTIONS REMAIN UNANSWERED

In response to the November 9th shooting death of Joseph Santos by Providence Police (PPD) and RI State Police (RISP) after a lengthy high speed pursuit, the ACLU of RI issued a five-page analysis, which critically examined the circumstances of the death based on the information provided by the two law enforcement agencies. Among the issues and questions raised by the ACLU’s analysis:

- **THE HIGH SPEED CHASE.** The pursuit endangered the motoring public, and it remains unclear if the chase was warranted and followed PPD and RISP’s high-speed pursuit policies.
- **THE USE OF DEADLY FORCE.** The PPD claims that the suspect, after being blocked in by police, posed “an imminent threat of death or serious physical injury” by ramming the cars in front and behind in order to get away. But the suspect was trying to get away from the police-initiated chase, not intentionally trying to cause harm.
- **TRANSPARENCY.** The decision by RISP to withhold all troopers’ names until an investigation was completed (which they later backed off of) represented a glaring and troubling lack of transparency, and also ran afoul of the Access to Public Records Act.
- **POLICE BODY CAMERAS.** Only one of three police body cameras was activated. Was this due to the PPD’s vague policy governing the activation of the cameras – about which the ACLU has previously expressed concern?

In calling for answers to these various issues, the ACLU analysis states that “whenever deadly force is used, and particularly in situations where it results in the death of an unarmed civilian, it is crucial that the situation and the circumstances be scrutinized with care.” The matter has been referred to a grand jury.

NEWS BRIEFS

SOUTH KINGSTOWN ENACTS ORDINANCE TO PROTECT IMMIGRANTS

The South Kingstown Town Council adopted a comprehensive ordinance protecting immigrants in their community from inappropriate and sometimes constitutionally dubious federal immigration actions and requests. The ordinance, based on a model that the ACLU of RI circulated earlier this year to all cities and towns, capped a months-long and vigorous lobbying effort by a local group, the South Kingstown Immigration Task Force. The ordinance's adoption comes at a time of increasing hostility at the federal level to immigrants of all statuses. The ACLU is hopeful that other municipalities will follow South Kingstown's lead in adopting protective ordinances.

ACLU SENDS LETTER TO RI POLICE CHIEFS: TICKET QUOTAS ARE AGAINST LAW

In response to recent news reports indicating that some local police departments have been implementing traffic ticket quotas, the ACLU of Rhode Island sent letters to all RI police chiefs reminding them of a state law, enacted in 2010, that specifically prohibits this practice. As the letter noted, ticket quota policies send a message that police enforcement is more about making money than enforcing the law, and generate disrespect for, and cynicism about, law enforcement. The ACLU encouraged individuals who may have evidence of police department traffic ticket quotas to share the information so that legal action on behalf of affected motorists can be considered.



RIDOT ADDS PRIVACY PROTECTIONS TO TOLL GANTRY POLICY

Relying on guidance provided by the ACLU, the RI Department of Transportation (RIDOT) has adopted new regulations designed to protect the privacy of motorists when the state's new truck toll gantry system is installed next year. RIDOT's initial regulations contained no provisions addressing the critical privacy issues raised by the system – despite earlier assurances that it would. The new truck toll system will use various technologies to capture information from every motor vehicle going under the gantries, even though only certain trucks will be assessed toll fees. Under the new regulations, the data from all non-tolled vehicles will be destroyed within seven days, and the information collected by the gantries cannot be used for any purpose other than toll collection.



EAST GREENWICH TOWN COUNCIL CANCELS DISCUSSION AMID PRESSURE FROM OPEN GOVERNMENT COALITION

Just several days after a RI Superior Court Judge found that the East Greenwich Town Council violated the Open Meetings Act (OMA) in its hiring of Town Manager Gayle Corrigan, the Council doubled down by posting an agenda to once again hire her and to ratify “all actions taken by Gayle Corrigan as Town Manager from June 19, 2017,” but without giving any indication what those actions were. After receiving a strongly worded letter from ACCESS/RI – a coalition of open government groups that includes the ACLU – arguing that this open-ended agenda item clearly violated the OMA, the Council agreed to remove the item from the agenda and, ultimately, postpone the meeting.

- AGENDA**
Town Council
Town of East Greenwich
Special Session
November 14, 2017 at 7:00 PM
Swift Community Center, 121 Peirce Street, East Greenwich, RI 02818
- (Any matter listed on this agenda is subject to a vote by the Town Council.)
- (1) Call to Order and Pledge of Allegiance to the American Flag
 - (2) New Business (Discussion/Action)
 - (a) Appointment of Gayle Corrigan as Town Manager
 - (b) Ratification of Town Manager Term Sheet retroactive to July 1, 2017.
 - (c) Ratification of all actions taken by Gayle Corrigan as Town Manager from July 1, 2017 - November 14, 2017

NEWS BRIEFS

GROUPS OBJECT TO EXPANSION OF MEDICAL DATABASE

The ACLU joined with the RI Medical Society and the RI Disability Law Center in testifying against proposed Department of Health regulations that would undermine the voluntary nature of patient participation in the state's "health information exchange," a comprehensive database of medical records maintained via DOH. Presently, a patient must agree to have his or her records transmitted to the HIE, but the regulations would require physicians to automatically transmit all patient records to the database, while supposedly limiting third-party access to them without consent. The ACLU argued that this concept undermined patient autonomy and a guarantee by statute of an opt-in process.

STATE BACKS OFF OF "CIVIL DEATH" DEFENSE

After the ACLU intervened by filing a brief in opposition, the Department of Corrections withdrew a motion it had filed seeking to dismiss an ACI lifer's civil rights lawsuit on the grounds that he was "civilly dead." The "civil death" law, enacted more than a century ago, declares people sentenced to life in prison to be "dead" for legal purposes, even though most of them are eligible for parole after 20 years. Rhode Island remains one of only three states with a law like this on the books. The ACLU's brief argued that use of the law to prevent an inmate from pursuing civil rights violations was an egregious constitutional violation itself.



NEW REPORT ON INTERNET CENSORSHIP IN RHODE ISLAND SCHOOLS

A new ACLU report on Internet filtering programs in RI schools found that blocked categories include such topics as "political," "dictionary," "abortion," "terrorism," and "news." A follow-up to a 2013 analysis of the same issue, the report disclosed that school filtering systems continue to vastly over-censor Internet access, hampering academic freedom and student access to relevant educational information. Internet filtering programs block certain categories of websites – or even websites that mention specific words – when students use school computers to access the Internet.

In 2016, in response to the 2013 report and ACLU advocacy, a law requiring all school districts to have Internet filtering policies that promote academic freedom in the classroom was enacted. However, this new report found that only two school districts are in compliance with the law. The ACLU has asked the Department of Education to intervene.

To learn more and read the full report, visit www.riaclu.org.

ACCESS STILL DENIED

How School Internet Filtering Violates State Law And Hinders
Academic Freedom

December 2017

ACLU
AMERICAN CIVIL LIBERTIES UNION
Rhode Island

ACLU OF RHODE ISLAND 2017 IN REVIEW

Each year the Affiliate lobbies on hundreds of bills at the State House, speaks at dozens of events, and contacts innumerable government officials to seek redress for civil liberties violations. At any given time, we are involved in more than 30 cases before the courts and administrative agencies. The list below is a sample of the ACLU of RI's activities this past year to give you an idea of the breadth of work we do on a regular basis.

IN THE COURTS

- We obtained a temporary restraining order against a Cranston ordinance that banned all panhandling, charitable solicitation and leafleting from roadway medians.
- The ACLU and the RI Disability Law Center obtained a favorable settlement against the Woonsocket Police Department for its illegal treatment of a deaf man wrongfully arrested and held overnight without ever being allowed an interpreter.
- The Affiliate obtained a favorable settlement on behalf of the family of an 8-year-old girl who was removed from a school bus, searched, taken alone to the police station without her parents' knowledge, and then held and questioned for several hours before being released.
- An ACLU lawsuit on behalf of Ada Morales, a naturalized citizen who was twice arrested and detained by immigration officials on the erroneous belief that she was an undocumented immigrant, led to a favorable settlement and significant changes in immigration policies.
- Ruling in an ACLU case, a judge declared unconstitutional a Narragansett ordinance barring more than four unrelated people from living together.
- The ACLU mounted a successful legal challenge to a Smithfield ordinance that undermined the State's medical marijuana law by severely restricting patients' ability to grow and use medical marijuana in the town.
- The ACLU obtained a favorable court decision on behalf of a fabrics designer denied employment solely because of her participation in the state's medical marijuana program.
- The Affiliate sued the Pawtucket Police Department for failing to provide an open government group access to records of police misconduct.
- The ACLU filed a pair of lawsuits against the Harmony Fire district on behalf of two female EMT/firefighters who were terminated after raising concerns that female firefighters were treated less favorably than men.



Plaintiff Ada Morales

AT THE STATEHOUSE

- The General Assembly approved legislation, strongly supported by the ACLU, protecting the First Amendment rights of student journalists.
- ACLU lobbying helped defeat a bill establishing an invasive highway surveillance system designed to catch out of state uninsured drivers.
- We successfully worked for the passage of legislation, to open up various records generated by the police investigation of the 38 Studios debacle.
- The General Assembly passed an automatic voter registration bill, making it easier to register to vote when conducting business at state agencies.



- ACLU lobbying led to passage of a bill providing regular review of inmates' child support orders to prevent payments from automatically accruing while they are incarcerated and clearly unable to pay.
- The ACLU successfully led efforts by two-dozen organizations to press the Governor to veto a bill that would have limited the ability of lawful permanent residents and other immigrants to obtain drivers' licenses.

OTHER ADVOCACY

- After the ACLU issued a report documenting many school districts' lack of policies protecting the rights of transgender and gender non-conforming students, the R.I. Department of Education approved statewide regulations requiring every school district in the state to adopt detailed supportive policies.
- With RI Legal Services, the ACLU filed a complaint against the state Department of Labor and Training for failing to provide adequate language interpreter services to people applying for unemployment benefits.
- Responding in part to an ACLU report documenting the short period of advance notice that many public bodies provide about their meetings, the General Assembly approved a bill increasing the amount of time that meeting notices must be posted.
- We mounted a major campaign for passage of comprehensive municipal ordinances, and concrete actions by state officials, to respond to the Trump Administration's sustained attacks on immigrants.



ORGANIZATIONAL NEWS

ACLU OF RI 2017 ANNUAL MEETING

A huge THANK YOU to everyone who joined us on Friday, October 13, 2017 for our Annual Meeting. This year we honored Dorcas International Institute of RI as the Raymond J. Pettine Civil Libertarian of the Year for its long-standing and effective work in advocating for Rhode Island's immigrant community. We also welcomed former client Ada Morales who told her harrowing story of unlawful detention at the hands of federal immigration authorities. And two of our cooperating attorneys, Lynette Labinger and James Cullen, discussed some of this year's landmark cases. If you want a recap, or missed it – tune in to our YouTube channel (@RhodeIslandACLU) to watch!



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TAKE ACTION TODAY:

**MAKE A YEAR-END DONATION
TO THE ACLU FOUNDATION OF RHODE ISLAND**

The ACLU of Rhode Island works in the courts, at the State House, and in communities to protect the fundamental rights of all Rhode Islanders. You may often read about the battles in the news, but just as often, we are accomplishing change quietly behind the scenes. No matter how our victories are achieved, they are always hard fought and require the support of community groups, cooperating attorneys, volunteers, and you. As a partner in our work, you have helped make us such a strong defender of civil liberties in the state.

**Your support is needed now more than ever. Please make a
tax-deductible donation today.**

You can make a donation by check or credit card. Donations can be sent by mail, by calling our office (401) 831-7171), or by visiting <http://riaclu.org/get-involved/donate>. Make checks payable to ACLU Foundation of Rhode Island. Thank you!