



Ruling Upheld in Title IX Case

A federal appeals court has handed female athletes at Quinnipiac University in Hamden an important victory in their lawsuit to compel the university to provide equal athletic opportunities for women under Title IX.

The American Civil Liberties Union of Connecticut filed the lawsuit in 2009 with cooperating attorneys Jonathan Orleans and Alex Hernandez of Pullman & Comley, LLC, and Kristen Galles of Equity Legal after the university announced plans to eliminate its women's varsity volleyball team.

In 2010, U.S. District Court Judge Stefan R. Underhill found the university in violation of Title IX, which requires universities that receive federal funds to provide equal athletic participation opportunities for men and women. He rejected the university's argument that competitive cheerleading is a varsity sport and ordered Quinnipiac to maintain the volleyball team until it can prove compliance with Title IX.

This summer a three-judge panel of the U.S. Court of Appeals for the Second Circuit affirmed Judge Underhill's ruling, point by point, calling it "comprehensive and well-reasoned."

"We expect the Second Circuit's decision to finally persuade Quinnipiac and any other university in violation of Title IX to stop fighting gender equity and start providing meaningful and equal athletic opportunities for women," said Legal Director Sandra Staub, who is litigating the case for the ACLU of Connecticut.



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Death Penalty Struggle Continues

Executing people after the death penalty has been repealed would violate the principle of fundamental fairness that guides Connecticut's criminal justice system, the American Civil Liberties Union of Connecticut argued in a brief submitted to the state Supreme Court.

Both the Connecticut affiliate and the national office of the ACLU submitted briefs Dec. 3 in the case of Eduardo Santiago, who spent seven years on death row. Shortly after the Connecticut legislature repealed the death penalty and the governor signed the repeal into law in April 2012, the Connecticut Supreme Court affirmed Santiago's conviction for capital murder-for-hire but reversed his death sentence.

With his case remanded for a new penalty trial, Santiago asked the Supreme Court to reconsider whether the repeal prevents the state from seeking the death penalty at his retrial. Both ACLU briefs support his motion for reconsideration and ask the court to bar the state from seeking Santiago's execution.

Connecticut's repeal of the death penalty was prospective, leaving the 11 prisoners then on death row subject to execution. Lawyers for Santiago argued that an execution carried out in the face of this

judgment would plainly constitute cruel and unusual punishment under the Connecticut and the U.S. constitutions.

To support Santiago's arguments, the national ACLU argued in a brief signed by 11 prominent legal scholars that executing Santiago would be "contrary to historical and contemporary standards of decency, and thus would be in violation of his constitutional right to be free from cruel and unusual punishment."

"By repealing the death penalty prospectively, the State of Connecticut has finally and unequivocally announced that imposition of the death penalty does not meet contemporary community standards of decency and morality," Legal Director Sandra Staub argued in the ACLU of Connecticut brief. "[P]ermitting Eduardo Santiago to be executed after this unequivocal announcement would be unprecedented and would violate principles of fundamental fairness embedded in Connecticut law."

The state Supreme Court will first consider applications from the Connecticut and national ACLU for permission to participate in the case as friends of the court. If permission is granted, the briefs will be part of the court record for the justices to consider in their deliberations.



Message from the Executive Director



Andrew Schneider

DOUG SCHNEIDER PHOTOGRAPHY

ON NOV. 6, VOTERS NOT ONLY chose political leaders, they expressed resounding support for civil liberties through ballot measures around the country. The results in various states reflect some of the legislative successes we've had here in Connecticut and will also influence our legislative campaigns in the future.

Voters in three states approved marriage equality and in another rejected a same-sex marriage ban; two states legalized marijuana and

another approved medical marijuana; Maryland approved in-state tuition for undocumented students; and Minnesota rejected photo ID requirements for voting.

Voters in Colorado and Washington chose to legalize possession of small amounts of marijuana by adults and Massachusetts voters legalized the medical use of marijuana. These are important steps away from the ruinous War on Drugs, which has squandered the nation's resources, imprisoned millions of non-violent drug users and exacerbated the racial biases in our criminal justice system. In Connecticut, where we passed legislation for decriminalization in 2011 and for medical marijuana in 2012, these recent developments accelerate us toward further reform of drug laws.

Influence works in both directions, and Connecticut has been a leader on the issue of marriage equality with our 2008 court victory assuring same-sex couples in the state of their right to marry. Voters in Maine, Maryland and Washington approved ballot initiatives Nov. 6 confirming the same right. And the voters of Minnesota rejected a state constitutional amendment to prohibit same-sex marriage.

Connecticut was also at the forefront of an important facet of immigration reform. With passage of the Dream Act in 2011, the state began extending in-state tuition rates at Connecticut public colleges and universities to undocumented immigrants who attended Connecticut high schools for four years. Maryland voters approved a similar measure in the recent election.

In Minnesota, voters rejected a proposal to require government-issued photo identification at the polls, which would have disenfranchised many people who don't drive or hold a passport. In Connecticut a much more reasonable law allows alternate forms of non-photo ID, but we heard many reports of poll workers asking for or demanding photo ID on Nov. 6. We are working toward a legislative solution to ensure the law is understood and applied properly.

As the nation moves forward on civil liberties, the ACLU of Connecticut will continue to build on our own successes and those of ACLU affiliates in other states.

Message from the President



Andy Schatz

SINCE MY COLUMN LAST YEAR, the ACLU has achieved many more victories. Our national office has successfully challenged restrictive voter registration laws, indefinite detention of immigrants, the Defense of Marriage Act and much more, and continues work in states most hostile to civil liberties. As all dollars raised from Connecticut residents are split between ACLU-CT and ACLU National, we can all take comfort and pride in our contribution to

National's effort and our truly national organization.

As I commented last year, ACLU-CT has escaped ACLU founder Roger Baldwin's warning ("civil liberties battles never stay won") by getting legislation adopted, including death penalty abolition, medical marijuana legalization, racial profiling protections and Election-Day voter registration—in the last Connecticut General Assembly session alone. The entire Staff cannot be thanked enough for those efforts, and our Executive Director, Andrew Schneider, for leading them!

Yet there is much still to do, even here, and our victories on major issues still facing so many states permit us to focus—and perhaps to lead—on new legislative battles, of which perhaps none is more complex than the intrusion of technology. Faces can be enhanced and voices recorded without awareness of those watched or heard. Connecticut police now scan license plates in parking lots, streets and neighborhoods, and keep data long after helpful for solving crimes. "Because they can" isn't sufficient explanation for public or constitutional policy.

And, ironically turning civil liberties on its head, government also attempts to restrict technology useful to monitor its own actions. Our state and cities attempt to limit transparency through unwarranted exceptions to the Freedom of Information Act, including for their emails—and even try to adopt changes outside of public scrutiny. As private should stay private, public should stay public.

Your state Board of Directors has initiated a strategic planning process to look at key areas for focus in the coming years. Our Steering Committee includes Chapter officers and will seek broad input. And you may contact me at any time at andy@andrewschatz.com.

Your participation can be critical. Please join us on Lobby Day (March 26) for training and visits to legislators about key ACLU-CT bills. Please attend local Chapter meetings or their dozens of fascinating public programs each year. Keep informed through acluct.org.

Because freedom can't protect itself!

No More Graduations In Cathedral



The lobby of First Cathedral in Bloomfield.

In a victory for the rights of public school students and their families, the Enfield Board of Education agreed not to hold public school graduations in a Bloomfield church.

The board's July 18 vote settled a lawsuit filed in 2010 by the American Civil Liberties Union, the ACLU of Connecticut and Americans United for Separation of Church and State.

From 2007 through 2009, Enfield and Fermi high schools held graduations in the sanctuary of First Cathedral in Bloomfield beneath a 25-foot-tall stained-glass cross and large banners reading "Jesus Christ is Lord" and "I am GOD."

The ACLU, ACLU of Connecticut and Americans United filed suit in May 2010 on behalf of two students and three parents who objected to the practice, arguing that it violated their First Amendment guarantees of religious liberty. The plaintiffs identified more than a dozen non-religious sites in the area that were available to host graduation ceremonies.

"There was no reason in this case to force public school students into an overtly religious setting for graduation," said Legal Director Sandra Staub, who litigated the case on behalf of the ACLU of Connecticut.

"The best way to protect religious rights in a pluralistic society is to ensure that the government does not favor one faith over another or over the rights of non-believers."

In June 2010, federal District Court Judge Janet C. Hall issued a preliminary injunction barring graduation at the church. As a result, the 2010, 2011 and 2012 graduations for both high schools were held on school grounds.

"Our lawsuit defended the fundamental constitutional principle of religious freedom which requires that religion remain free from government interference," said Andrew Schneider, Executive Director of the ACLU of Connecticut. "Ultimately, the school board voted to do the right thing, so that students will no longer be forced to choose between attending graduation and being subjected to proselytizing religious messages."

ACLU of Connecticut Lawyers Honored for Work

David McGuire, staff attorney for the ACLU of Connecticut, has been named a New Leader of the Law, and Legal Director Sandra Staub won a Distinguished Alumni Award from Greenfield Community College. McGuire was among 60 Connecticut attorneys under the age of 40 honored by the Connecticut Law Tribune at a Nov. 9 dinner. Staub was one of 50 Greenfield Community College graduates honored at a Nov. 3 dinner marking the college's 50th anniversary. "The ACLU of Connecticut is extremely fortunate to have such a talented legal team," Executive Director Andrew Schneider said.

Civil Liberties Beacon, Winter 2013

Membership in the ACLU of Connecticut includes a subscription to **Civil Liberties Beacon**. For membership information, visit acluct.org/join or call 860-523-9146, ext. 8465.

Andy Schatz
President

Andrew Schneider
Executive Director

Sandra Staub
Legal Director

David McGuire
Staff Attorney

Denise Thivierge
Office Manager

Jeanne Leblanc
Communications & Education Manager

Jeremy Shafer
Legal Assistant

Isa Mujahid
Field Organizer

Ruth Sovronsky
Development Associate

Sovronsky Joins ACLU-CT



Ruth Sovronsky joined the ACLU-CT staff in August as development associate after many years as a successful matrimonial attorney in New York.

Her relocation to Connecticut gives her the chance to fulfill a longstanding passion to work for civil liberties.

While in New York, Sovronsky formed a scholarship foundation to aid young musicians, and contributed her time to various nonprofit organizations, donating her services as a writer to craft successful grants for the award-winning Classical Theatre of Harlem.

She remains devoted to the arts and is an avid photographer, with photographs of theatrical productions published in *The New York Times*, *The Village Voice* and *Broadway World*, among others.

Holding the Line on Civil Liberties in Connecticut's Towns and Cities

Our members help us protect freedom in Connecticut by telling us about civil liberties issues in their towns and helping advocate for constitutional rights. Here are some of the issues that the ACLU of Connecticut has confronted recently:

Region 15 Pledge of Allegiance

Displeased with a policy that protects students in Southbury and Middlebury from being forced to recite the Pledge of Allegiance, some members of the Region 15 Board of Education suggested making the Pledge mandatory.

While the proposal was sent to a board subcommittee for consideration, the ACLU of Connecticut sent a letter reminding the board that state law and the U.S. Constitution clearly protect students from being compelled to say the Pledge of Allegiance. "This legal precedent has withstood numerous attempts by school boards that have tried to make the Pledge mandatory or punish students who choose not to participate," wrote Staff Attorney David McGuire.

The proposal had not come up for a vote at press time.

Fairfield Student Privacy

A proposed policy to govern the use of personal electronic devices in Fairfield schools would have stripped students of "any expectation of personal privacy" when the devices are used for school purposes.

The Fairfield Board of Education agreed to reconsider the proposed policy after the ACLU of Connecticut objected. Staff Attorney David McGuire wrote that the policy "ignores the Fourth Amendment rights of students or anyone else with a privacy interest in the device and the information contained on it."

Colchester Youth Curfew

A youth curfew proposed for certain public areas in Colchester would threaten the constitutional rights of young people, the ACLU of Connecticut told the town's Board of Selectmen.

The curfew was suggested as a way to curb vandalism, but crime statistics don't

show that vandalism is becoming more common in Colchester or that minors are disproportionately responsible for the incidents that have occurred. In addition, research has consistently shown that curfews don't prevent crime by and against young people. The selectmen had not acted on the proposal as this newsletter went to press.

Bridgeport Youth Curfew

Over the objections of the ACLU of Connecticut, the Bridgeport City Council voted in July to adopt an overnight curfew for people under the age of 18.

The ACLU-CT is monitoring enforcement

who have served their sentences, the restrictions will interfere with the family ties that help keep them from offending again, Schneider said.

The ACLU-CT will monitor implementation of the ordinances.

Military Testing

Students who take the Armed Services Vocational Aptitude Battery at school may not realize that their test scores and personal information may be provided to military recruiters—even if their parents signed a form exempting their school records from disclosure.

Whether this information is given to recruiters depends on school district policy, and the ACLU of Connecticut has embarked on a campaign to persuade school boards to opt out of automatically giving private student information to recruiters. That way, parents and students can decide what information to give the military.

In Torrington, where the schools have a practice of allowing families to make that decision, the ACLU of

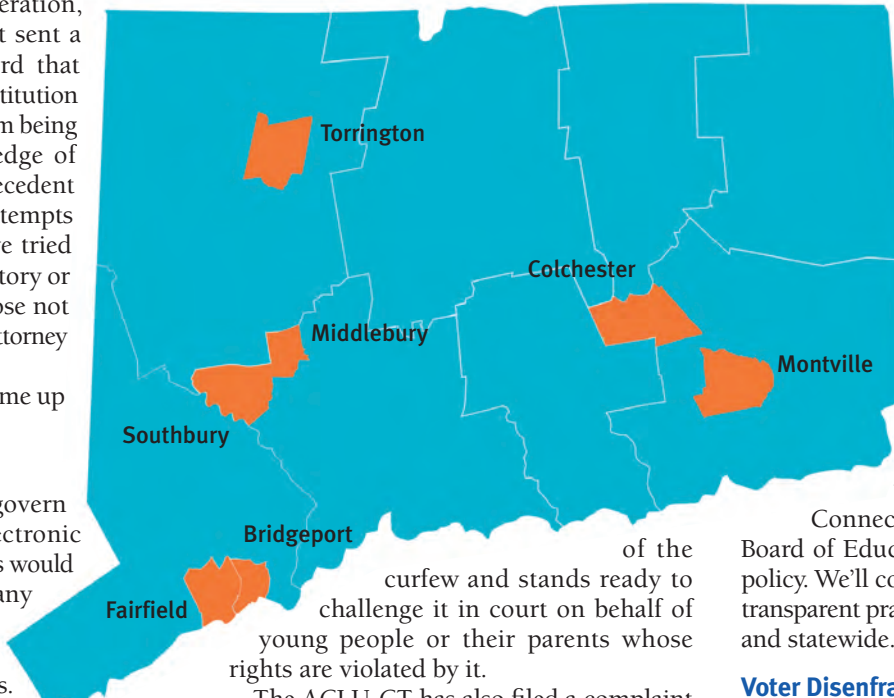
Connecticut is working with the Board of Education to make that a formal policy. We'll continue to work toward more transparent practices around this test, locally and statewide.

Voter Disenfranchisement

Before the Nov. 6 presidential election, the ACLU of Connecticut reminded registrars of voters in all of the state's 169 towns that photo identification is never required to vote in Connecticut.

State law allows a wide range of identification to be used at the polls so that citizens who don't drive or hold a passport will not be denied their right to vote. These include student and employee IDs, utility bills, Social Security cards and credit cards.

Despite the outreach to registrars and a publicity campaign for voters, we fielded many complaints about demands for photo identification from poll workers, and we're working with the state to solve this problem.



of the curfew and stands ready to challenge it in court on behalf of young people or their parents whose rights are violated by it.

The ACLU-CT has also filed a complaint against the city under the Freedom of Information act for its failure to provide documentation that purportedly shows the curfew will reduce crime in the city.

Montville Senior Safety Zones

Alarmed by plans to open a treatment facility for sex offenders at the Corrigan Correctional Center in Montville, the town government enacted ordinances creating child and senior safety zones where registered sex offenders are banned except under very limited circumstances.

ACLU of Connecticut Executive Director Andrew Schneider called the restrictions unnecessary and ineffective. In addition to infringing on the civil liberties of citizens

Legislative

Police Accountability Tops Legislative Agenda

Regulating the use of Tasers and license plate scanners will be at the top of the ACLU of Connecticut's upcoming legislative priorities, along with statewide standards for accepting civilian complaints about police misconduct.

After an auspicious 2012 session, in which the state legislature repealed Connecticut's death penalty and approved the medical use of marijuana, the focus is shifting toward a number of criminal justice initiatives in 2013. These include:

Police Complaint Procedures

After hearing from people around the state who were having trouble filing complaints against police, the ACLU of Connecticut surveyed police departments and found that most fail to follow recommended law-enforcement procedures for accepting civilians' complaints about police misconduct. Many departments impose barriers known to discourage and intimidate complainants, such as refusing anonymous complaints, requiring sworn statements or warning of prosecution for false statements.

In a report on our survey, released early in December, we recommended statewide standards for all police agencies in Connecticut. (The full report is available at www.acluct.org/protect.)

These include requiring police departments to adopt a written policy on accepting complaints, providing a complaint form to civilians, accepting all complaints and refraining from requiring sworn statements.

These recommendations are drawn from such sources as the International Association of Chiefs of Police and the Commission on Accreditation for Law Enforcement Agencies.

Police Use of Tasers

Over the past decade, police departments across the country have armed their officers with Tasers. Originally billed as non-lethal alternatives to deadly force, these "electronic control weapons" are increasingly used in routine enforcement actions on people who



PHOTO: RUTH SOVRONSKY

pose no threat to others.

Meanwhile, evidence mounts that Tasers can be dangerous. Amnesty International reports that at least 500 people have died since 2001 after being shocked with Tasers during arrest or while in jail in the United States. A review by the ACLU of Connecticut

found that at least 11 people have died after being shocked by police Tasers in the state since 2005. And earlier this year, the American Heart Association's journal *Circulation* published a study that concluded Tasers can cause fatal heart attacks.

There are no statewide rules about Taser use in Connecticut, and policies vary widely among police departments. While recognizing that Tasers can be effective tools for law enforcement when operated properly, we will seek legislation to set reasonable standards for their use and minimum training requirements for the officers who deploy them.

License Plate Scanners

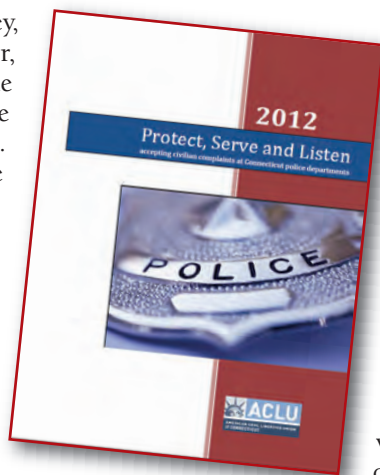
Cameras mounted on police cars have scanned millions of Connecticut license plates so that computers can check them against databases of stolen and unregistered

cars. The trouble is, many police departments are collecting and pooling the data, which can be used to track the movements of innocent people months or even years later. Without cause or suspicion of any wrongdoing, the government can track your pattern of visits to a doctor, place of worship, AA meetings or political events and check on who you might be meeting there.

The ACLU of Connecticut lobbied for legislation in the 2012 session that would have protected the privacy of Connecticut drivers by requiring law enforcement agencies to discard license plate scans within two weeks unless the data is relevant to a criminal investigation. The bill died in committee but we'll press this issue again in 2013. Meanwhile, we have worked with the Hartford Parking Authority to dump its scan data every eight hours.

These are just a few of the issues we want to address in the next legislative session. Many others are likely to arise, including the right to record police activity, which we support as a right clearly established under the First Amendment. We may also be called on to defend reproductive rights and we may have to fight again to protect the privacy and due process of Connecticut drivers from red light cameras.

Every session brings unforeseen attempts to restrict civil liberties, and you can count on the ACLU of Connecticut to play defense for you and for all of us.



Grassroots

Declaring War on the Drug War

New Haven Police Chief Dean Esserman, State Rep. Gary Holder-Winfield, former Hartford Councilman Robert Painter and ACLU-CT Legal Director Sandra Staub spoke at an Oct. 23 panel discussion entitled “Time to Declare War on the War on Drugs?” The program, sponsored by the Greater New Haven Chapter of the ACLU of Connecticut, touched on drug policy and legalization, prison overcrowding and violence. Cliff Thornton, an ACLU of Connecticut board member and the co-founder of Efficacy, moderated.

Campaign Finance Reform

The Supreme Court’s decision in *Citizens United v. Federal Election Commission* was the topic of a forum sponsored by the Southeast Connecticut Chapter of the ACLU of Connecticut and the League of Women Voters of Southeastern Connecticut on Oct. 3. The panelists were Associate Attorney General Perry Zinn-Rowthorn; Deputy Secretary of the State James Spallone, and ACLU of Connecticut President Andy Schatz. Former State Rep. Claire Sauer served as moderator. Schatz also spoke on that topic Oct. 4 to the Greater Hartford Chapter.

An Eye on Legislation

The Quinnipiac Law School Chapter of the ACLU of Connecticut is planning several programs, including a regular series of legislative awareness sessions to inform the

Learn to Lobby March 26

Learn how to lobby for liberty at the ACLU of Connecticut’s third annual Lobby Day on March 26, 2013 at the state Capitol in Hartford.

Participants will get an overview of the ACLU of Connecticut’s legislative agenda and learn from seasoned lobbyists how to talk persuasively about those issues with their legislators. These are some of the issues we are looking to address:

- ▲ standards for how police departments accept complaints about officer misconduct;
- ▲ a requirement to protect privacy by discarding license plate scan data;
- ▲ guidelines and standards for police deployment of Tasers.

We know that lawmakers will listen to their constituents, but they can’t hear you unless you speak out. Last year more than 200 people turned out for Lobby Day and their efforts helped win one legislative victory after another, from repeal of the death penalty to approval of marijuana for medicinal use.

The program will run from 10 a.m. to 2 p.m. and lunch will be provided. RSVP to Field Organizer Isa Mujahid at 860-523-9146, ext.8473 or imujahid@acluct.org.

public about upcoming legislation related to civil liberties. Contact chapter President Robert Barga, robert.barga@quinnipiac.edu, for more information.

Free Speech and the Supreme Court

Attorney Martin A. Goldberg, an active member of the Fairfield County Chapter of the ACLU of Connecticut, gave a presentation Nov. 8 about Supreme Court cases that have influenced the legal interpretation of free speech in the United States, including *Garcetti v. Ceballos*, *Citizens United v.*

Federal Election Commission and many others. The audience participated in a lively discussion throughout the event.

Schatz Elevated on National Board

Andy Schatz, President of the ACLU of Connecticut since 2010 and a member of the national ACLU’s Board of Directors since 2009 was elected in 2012 to the Executive Committee of the National Board, which reviews the activities of the ACLU and exercises powers of the board between meetings.



PHOTO: STEPHEN MICHINA

Norman Dorsen, former president of the American Civil Liberties Union, spoke about “The Limits of Free Speech” on Sept. 30 at the North Cornwall Meeting House. His talk was part of the Fall Lecture Series sponsored by the Northwest Connecticut Chapter of the ACLU of Connecticut. The series also included a brief overview of the ACLU of Connecticut’s recent legislative successes, and a well-attended talk about press shield laws. The chapter is also planning a First Amendment art show for the spring.

Outreach



PHOTO: RUTH SOVRONSKY

▲ Andrew Schneider, executive director of the ACLU of Connecticut, speaks about “ACLU Clients and Their Sacrifices” to the Salisbury Jewish Community of the Northwest Corner at Noble Horizons in Salisbury on Oct. 21.



PHOTO: RUTH SOVRONSKY

▲ Bernadette J. Brooten, founder and director of the Brandeis Feminist Sexual Ethics Project, and Superior Court Judge David P. Gold share an exchange at a panel discussion entitled “The Naked Truth: Strip Searches, Airport X-Rays and the Quest for Security After 9/11” at the Charter Oak Cultural Center in Hartford. The program, sponsored by the cultural center and the Greater Hartford Chapter of the ACLU of Connecticut, was held Sept. 10.

“Shielding the Press: Should Reporters Ever Have to Reveal Their Sources?” was the topic of a presentation Nov. 19 at the Rooster Tail Inn in Warren, sponsored by the Northwest Connecticut Chapter of the American Civil Liberties Union of Connecticut. The featured speakers were Keith R. Johnson, an ACLU board member who worked as a foreign correspondent for *Time* and senior editor of *Fortune*, in foreground; and John Miller, a former writer for NBC Nightly News and the Today show.



PHOTO: RUTH SOVRONSKY



PHOTO: JEANNE LEBLANC

▲ Matt Poland, Chief Executive Officer of Hartford Public Library, welcomes panelists at the annual Banned Books Readout held Oct. 1 at the library's Mark Twain Branch in Hartford Public High School and sponsored by the library, the ACLU of Connecticut and the Law and Government Academy at Hartford Public High School. The panelists were, from left, Tiffany Mitchell, a senior at the Law and Government Academy; Deacon Arthur Miller, Director of the Office of Black Catholic Ministries for the Archdiocese of Hartford; Secretary of the State Denise Merrill; Dr. Christina Kishimoto, Superintendent of the Hartford Public Schools; and Hartford City Councilwoman Cynthia R. Jennings. WNPR News Director John Dankosky served as moderator.



PHOTO: ALLAN VEGA

▲ Don Noel, board member and past president of the ACLU of Connecticut, speaks to students at Jumoke Academy in Hartford on Sept. 17, Constitution Day, as part of an annual outreach program for Connecticut schools.



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ACLU-CT Donor Profile: Howard Aibel

Howard Aibel was a recent graduate of Harvard Law School in the 1960s when he realized that a brilliant African-American classmate was being denied job interviews because of his skin color.

That experience ignited Aibel's passion for civil rights, which drew his attention to the work of the ACLU. Although he worked most of his career as an anti-trust litigator, he has also been a tireless advocate for equal rights and civil liberties, serving as a trustee for the Lawyers' Committee for Civil Rights.

In recent years, Aibel focused on repealing the death penalty in Connecticut. As co-chair of his church's group to reform criminal justice statutes and eliminate capital punishment, he worked directly with Andrew Schneider, Executive Director of the ACLU of Connecticut, helping with the successful repeal. Gov. Dannel P. Malloy signed the repeal into law in April 2012, making Connecticut the 17th state, in addition to the District of Columbia, to end the death penalty.

Aibel believes fervently that capital punishment is not only wrong in principle but that it has been applied, in case after



case, in an arbitrary and racist way.

Other issues of concern to Aibel include anti-immigration legislation and racial profiling. "There is an ongoing need for education," he observed.

His concern for social justice was shared by his wife, Katherine, a school social worker who continued to advocate on behalf of children after she retired, often serving as a guardian ad litem. They have three sons and a grandson, now 7. Katherine passed away on February 22, 2006; they would have been married 51 years.

Aibel began his career with White & Case in New York, worked as trade regulation counsel for General Electric, and advanced to become general counsel for International Telephone and Telegraph. He joined LeBoeuf, Lamb, Green & MacRae as a partner in 1994, and continued to work as an arbitrator and mediator after leaving the firm in 2001.

Looking back on a rich and rewarding career, he modestly observed that as time went on he realized he "knew less and less about more and more."