

2012 ACTION REPORT





A MESSAGE FROM OUR EXECUTIVE DIRECTOR

DEAR FRIEND AND SUPPORTER OF THE ACLU,

We are pleased to share this 2012 Action Report, highlighting some of the extraordinary civil rights and civil liberties achievements that your support has made possible over the last year.

As the Obama administration enters its second term, and with many new leaders in Congress and in the Massachusetts State House, the non-partisan ACLU of Massachusetts is poised to work with you and our 20,000 supporters in Massachusetts to defend American values of civil rights and civil liberties in the months and years ahead.

Our goal: a free future.

This is a critical time for the defense of American liberties and democracy. As never before in our lifetimes, the foundation of our system of checks and balances is under siege, both from systemic and technological forces which are eroding our fundamental rights, and from leaders who are willing to sacrifice real freedoms for the illusion of security.

Despite dramatic strides in civil rights areas in the last decade—notably LGBT equality—we nonetheless are experiencing a growing homeland-security surveillance state that threatens our free and open society, with implications for generations to come. Its first targets are, as always, traditionally underserved communities of color, recent immigrants, poor people, and free thinkers.

The work of the ACLU has never been more essential. As the nation's leading civil rights and civil liberties organization, we are uniquely positioned to curb government surveillance while, at the same time, ensuring equal protection for all. We know, as do you, that when the rights of society's most vulnerable members are denied, the rights of all are endangered.

This year, our advocacy priorities focus in four key areas:

- **Liberty:** Privacy, government surveillance, and protection of personal autonomy;
- **Justice:** Police practices, school-to-prison pipeline and over-incarceration;
- **Equality:** Racial, gender, immigrant, and LGBT rights, and rights of the poor;
- **Democracy:** Voters' rights, freedom of speech, government transparency, and religious liberty.

With your continued support, we are primed to launch new initiatives and strengthen existing work in each of these areas for maximum impact and effectiveness.

Our history—indeed, American history—teaches that a free future requires action today. It involves you and other steadfast people standing up for the liberty of all people. “So long as we have enough people in this country willing to fight for their rights, we’ll be called a democracy,” said ACLU founder Roger Baldwin.

I hope you join me in feeling immensely proud of the work we do, while also acknowledging that much work remains to be done.

The ACLU of Massachusetts needs you now more than ever. Over the course of the next year, I hope you will encourage others to join you in connecting with and supporting the ACLU, using any or all of the online resources listed in this report.

Thank you for your support, and for your role in realizing the common goal of liberty and justice for all.

Carol Rose
Executive Director

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The ACLU of Massachusetts, with over 20,000 supporters across the Commonwealth, is the state affiliate of the national ACLU. We defend the principles enshrined in the Massachusetts Declaration of Rights as well as the U.S. Constitution.

We protect your civil liberties: your rights as an individual to freedom of speech, association and assembly, and to religious liberty. We protect the freedom of the press. We work to ensure that you have the right to equal treatment under the law and the right to due process, and that you are free from unwarranted government intrusion into your private life.

We also fight discrimination and uphold your civil rights. We are here for everyone, working to ensure that all people in the Commonwealth are treated with equality and fairness. We've learned from history that if the rights of society's most vulnerable members are denied, everyone's rights are imperiled.

LIBERTY



The ACLU is dedicated to protecting and expanding the First Amendment freedoms of expression, association, and inquiry; expanding the right to privacy and increasing the control that people have over their personal information; and ensuring that civil liberties are enhanced rather than compromised by new advances in science and technology. Current priorities include initiatives to protect individual privacy and personal autonomy; to force greater government transparency over the ways in which personal data is collected, stored, shared and used; and to end excessive and unnecessary government surveillance.

“If you want to be free, there is but one way; it is to guarantee an equally full measure of liberty to all your neighbors. There is no other.” –CARL SCHURZ

AND JUSTICE



From our very first days, the ACLU has fought to uphold equal rights and to combat discrimination in all forms through litigation, community organizing and training, legislative initiatives and public education to address the broad spectrum of issues that disproportionately and negatively impact people of color and the poor. Today, our focus is in four related areas: stopping racial profiling; shutting down the school-to-prison pipeline; ending over-incarceration; and defending the rights of immigrants.

“Human progress is neither automatic nor inevitable... Every step toward the goal of justice requires sacrifice, suffering, and struggle; the tireless exertions and passionate concern of dedicated individuals.” –MARTIN LUTHER KING, JR.

FOR ALL



In Massachusetts and across the country, the ACLU is fighting efforts to take us back to a time when many Americans were relegated to second-class citizenship. We work to ensure that everyone—regardless of gender, race, religion, sexual orientation, disability, income, national origin or ideology—is treated equally under the law, and that the courts and legislatures are used to end, rather than codify, discrimination in the law.

“Until we are all free, we are none of us free.” –EMMA LAZARUS

Websites aclum.org and privacySOS.com | aclum.org/action | aclum.org/events
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Supreme Judicial Court rules Massachusetts cannot cut immigrants from health insurance program

The state's highest court held in January that the Commonwealth cannot discriminate against noncitizens in its Commonwealth Care health insurance program, because it violates the right to equal protection under the Massachusetts Constitution. Facing a financial crisis, the legislature had cut all noncitizens from the program in 2009.

The ACLU and other groups filed an amicus brief arguing that discrimination against noncitizens is unconstitutional, and the state's justification did not pass the high hurdle set by the court.



Photo by Marilyn Humphries

ACLU upholds free speech rights of Occupy Boston

Boston provided a national model at the height of tensions between Occupy protestors and law enforcement, thanks to work by the ACLU and National Lawyers Guild. Led by pro bono attorneys Howard Cooper and Benjamin Wish (from the law firm of Todd & Weld), the two organizations filed suit on behalf of Occupy Boston and four named protesters. They requested an emergency order to prevent a surprise raid at the Dewey Square camp, followed by a hearing on the rights of protesters under the First Amendment. Suffolk Superior Court Judge Frances A. McIntyre issued an order preventing the police from raiding the camp absent an emergency.

Boston owes much to the Occupy Boston protesters whose lawsuit obliged city officials to exercise restraint not seen in other cities. The protesters' willingness to exercise their constitutional right to access the courts—and, ultimately, to abide by the court's ruling, even though it went against their interests—is what kept the peace, and marked a victory for both the right to protest and the rule of law. See aclum.org/occupy_legal for more.

MEHANNA PROSECUTION COMPROMISES FIRST AMENDMENT, UNDERMINES NATIONAL SECURITY

In April, US District Court Judge George O'Toole sentenced Tarek Mehanna—a young pharmacist from Sudbury—to 17.5 years in prison on various "material support to terrorism" charges, even though no evidence was ever presented in court directly linking him to a terrorist group, and even though Mehanna neither hatched a plot nor was involved in violence. Earlier, Judge O'Toole also denied permission for the ACLU of Massachusetts to file a brief in support of Mehanna's First Amendment rights.

We did, nonetheless, speak out about it, and more than 70,000 people read a widely circulated blog by ACLU of Massachusetts education director Nancy Murray, called "It's official. There is a Muslim exemption to the First Amendment" (aclum.org/usa_v_mehanna).

Court upholds ACLU challenge to religious restrictions on reproductive services

A federal judge in Boston ruled in March that the US Department of Health and Human Services (HHS) violated the First Amendment by allowing religious restrictions on reproductive health services for victims of human trafficking. The ACLU challenged HHS' decision to award a contract for distribution of funds under the Trafficking Victims Protection Act to the US Conference of Catholic Bishops (USCCB), which prohibited subcontractors from using these funds for contraception and abortion referrals and services.

In enacting the TVPA, Congress recognized that many trafficking victims have been raped by traffickers and forced into prostitution, and need a broad range of health services. The ruling recognized the importance of not imposing religious doctrines on those served by government programs. The USCCB and HHS have appealed to the First Circuit Court of Appeals. See aclum.org/sebelius for more.

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Attorney General rules Middleborough's anti-swearing bylaw violates First Amendment

In June, the Town of Middleborough attracted national attention by allowing police officers to issue fines for several existing bylaws, including a 1968 bylaw banning public profanity. In response, the ACLU of Massachusetts submitted a letter to the Attorney General arguing that three of those existing bylaws—the profanity ban and disorderly conduct bylaws adopted in 1927 and 1972—were unconstitutional, at least in part.

The AG's Municipal Law Unit agreed, concluding that specific portions of those provisions should be "repealed or amended." The Attorney General's review confirmed that the First Amendment protects public speech, even when it is profane.

ACLU supporters call for criminal sentencing reform

At the close of the 2012 legislative session, Gov. Patrick signed legislation that expands mandatory sentencing—a bill that the ACLU of Massachusetts opposed on the grounds that it would take the justice system in the wrong direction: expanding unjust, wasteful mandatory sentencing and depriving judges of the ability to depart from required mandatory maximum sentences for so-called "habitual offenders."

Yet there's reason to take heart. ACLU supporters made thousands of contacts by email and phone, which led to reconsideration of some of the most objectionable parts of the original proposal, and to inclusion of a number of positive reforms, including reduced mandatory minimum sentences for some drug offenses. Gov. Patrick and legislative leaders also made public commitments to work for more comprehensive sentencing reforms in the next session.



Massachusetts voters pass ACLU-endorsed medical marijuana law

The ACLU of Massachusetts proudly played a leadership role in the campaigns for two measures on our state ballot this November. Unfortunately, voters rejected the Death with Dignity act narrowly (51–49%), but voted nearly two to one to approve medical use of marijuana.

The medical marijuana law goes into effect in 2013, and was carefully crafted from the best practices of 17 other states that have passed similar laws since 1996.

The Massachusetts law will make patients safer and more secure, and will spare those who are already seriously ill from having to deal with a black market to get a medication that helps them. Additionally, it gives doctors the right to speak openly with patients about this valuable treatment option. See aclum.org/medical_marijuana_initiative to learn more.

ACLU "Policing Dissent" report reveals Boston police spy on political and peace groups



 **Occupy Wall Street**
@OccupyWallStNYC
"It's wrong in a democracy for the govt. to spy on its own citizens and label them as criminals." ~Carol Rose, ACLU #OB ow.ly/ezEzR

 **Occupy Wall Street** @Occupy... 2m
RT @aclu_mass: The Boston Police Department's political surveillance: read the report, watch the video and see the docs aclum.org/policing_disse...

In October, a year after suing the Boston Police Department for access, the ACLU of Massachusetts published documents and surveillance video proving that officers assigned to the Boston Regional Intelligence Center have been monitoring and tracking activists engaged in constitutionally protected protests. How bad is it? Those who officers have classified as "extremists" include the late professor Howard Zinn and the organizations Veterans for Peace, United for Justice with Peace, and CodePink.

These records provide a glimpse into Boston Police political surveillance practices, and underscore what the ACLU has been saying for years: the legislature must act to defend peaceful, constitutionally protected activity from unwarranted surveillance (aclum.org/policing_dissent).

ACLU IMPACT IN MASSACHUSETTS: LIBERTY AND JUSTICE FOR ALL!



New York Times highlights ACLU work against racial profiling at Logan airport

The ACLU of Massachusetts has argued for years that security measures such as the “behavior detection” program at Logan Airport are ineffective and perpetuate racial profiling of Middle Easterners, blacks, Hispanics and other minorities. This summer, however, when a group of TSA agents themselves backed up our claim, the *New York Times* highlighted the issue—and the work that the ACLU has done to address it—on its front page, and the story made news across the country.

Gov. Patrick signs ACLU-backed bill to reform school discipline

Our sustained work to shut down the “school to prison pipeline” and keep kids in school paid off this year in a big way: Gov. Patrick signed into law a landmark ACLU-backed bill that will help turn schools away from wrong-headed “zero tolerance” policies that result in too many kids being pushed out of classrooms, instead of encouraged to engage and learn. The law is a great victory for fairness and access to education in Massachusetts.

ACLU sues federal agencies over automatic license plate reader

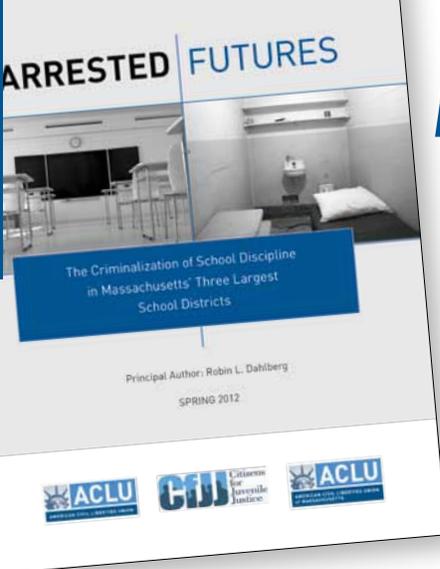
In September, the ACLU of Massachusetts and national ACLU filed suit in federal court against the Justice and Homeland Security Departments, seeking records about the federal government’s use of automatic license plate readers.

License plate readers, mounted on police cars or stationary objects, can read up to 3,000 license plates per minute, allowing police to track ordinary citizens going about their lives. The devices have legitimate law enforcement purposes, but they also record the time and location of every plate they read, which in turn enables the government to create huge databases of people who have done nothing wrong. In January, we will introduce legislation that would require common sense controls to ensure that license plate *readers* are not license plate *trackers*. See aclum.org/alpr for more.

In wake of drug lab scandal, ACLU advocates scaling back the war on drugs

The ACLU of Massachusetts has used the state drug lab scandal—in which alleged misconduct by chemist Annie Dookhan may have tainted tens of thousands of cases—to call for a fundamental reexamination of the Commonwealth’s war on drugs. We have publicly called for the dismissal of certain compromised cases—such as those involving nonviolent drug offenses or misconduct by prosecutors—in order to save taxpayers money and restore faith in the criminal justice system.

In October, we also worked with other bar leaders to ask the Attorney General to relinquish control of the investigation to an independent agency. The Attorney General did precisely that, and the Inspector General has been called upon to investigate. Our efforts aim to assure a just and fair response to this scandal (aclum.org/drug_lab).



ACLU calls on Massachusetts cities to reduce use of police in schools

Research by the ACLU and Citizens for Juvenile Justice has found an overreliance on arrest as discipline for student behavior in Boston, Worcester

and especially Springfield—even for minor, disruptive behavior that is not generally considered criminal. We published our findings in a report called “Arrested Futures: The Criminalization of School Discipline in Massachusetts’ Three Largest School Districts.”

The ACLU then called on those cities to ensure that arrest is the last resort for disruptive students, to reallocate money spent on in-school police for developing in-school alternatives, and to address the disproportionate use of arrest against youth of color and students attending therapeutic schools (aclum.org/arrested_futures).

City of Boston settles case involving man arrested for recording police with cell phone

Lawyer Simon Glik found himself on the other side of the law when Boston Police arrested him and charged him with violating the state’s wiretapping statute—simply for using his phone on Boston Common to openly record police officers using what he thought might be excessive force.

The ACLU brought a civil rights lawsuit on Glik’s behalf and obtained a landmark ruling last year in the U.S. Court of Appeals for the First Circuit, which held that the police should have known that arresting Glik for recording them violated the First Amendment. As a result, the Boston Police Department has reportedly begun instructing officers not to arrest people who openly video-record them, and the City of Boston settled Mr. Glik’s civil rights claims (aclum.org/glik).



ACLU joins voter protection efforts in Worcester and Springfield

ACLU of Massachusetts volunteers like these joined election-protection efforts across Massachusetts on Election Day this November to protect voters’ rights in precincts that reported problems in previous elections. More than 80 coalition volunteers covered 24 precincts in Worcester—more than half of all polling places in the city—and 20 covered 16 priority precincts in Springfield.

ACLU advocates for Paycheck Fairness Act

The ACLU strongly supports federal legislation to update the Equal Pay Act of 1963 and the Lilly Ledbetter Fair Pay Act of 2009—to require employers to show that wage differences are based on factors other than sex and prohibit retaliation against employees who inquire about wage practices. In today’s workforce, women are primary or joint breadwinners in 6 out of 10 families, and the Paycheck Fairness Act is long overdue. Sadly, the bill was blocked in the US Senate this June, but we’ll be back! Go to aclum.org/ledbetter to see Lilly Ledbetter herself make the case.



The ACLU depends on membership gifts and individual and foundation donations for almost all of our support. The ACLU wouldn't exist without the members, donors, activists and volunteers who make our work possible. We never charge clients for legal representation, and do not accept any government funding, in order to maintain absolute and unequivocal independence.

Over 20,000 people in Massachusetts, and over 500,000 across the nation, care enough about liberty, justice, equality and democracy to make an investment in protecting those principles. This page lists some of the people who are responsible for the success of the ACLU of Massachusetts, but make no mistake—we wish we had enough space to recognize and personally thank *every* supporter by name, because the power of the ACLU comes from the combined impact of *all* those who support our work!

Grateful to all, we offer special appreciation to the following leadership donors:

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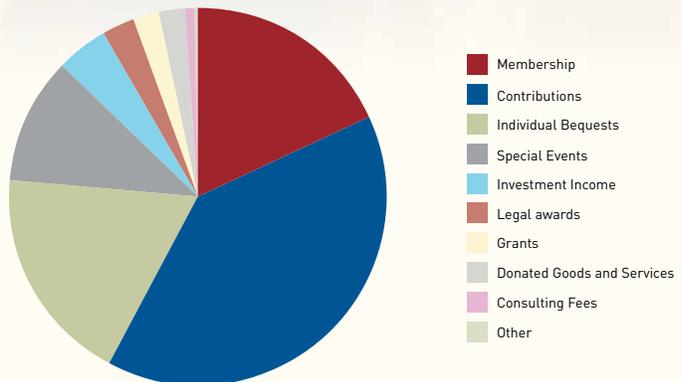
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FISCAL YEAR 2012 SUPPORT

The ACLU of Massachusetts and ACLU Foundation of Massachusetts are separately incorporated non-profit organizations, each engaged in litigation, education, communication, and organizing activities—and for the ACLU of Massachusetts, legislative advocacy as well—to protect the civil liberties of all people in Massachusetts. For the purpose of more simply presenting our finances, the revenue of both entities is combined together for this basic summary; more detailed information about revenue and expenses is available at www.aclum.org/2012.

Combined ACLU of Massachusetts and ACLU Foundation of Massachusetts Revenue for FY2012

Membership	\$ 515,153
Contributions	\$ 1,128,821
Individual Bequests	\$ 525,228
Special Events	\$ 308,030
Investment Income	\$ 127,576
Legal awards	\$ 78,754
Grants	\$ 61,500
Donated Goods and Services	\$ 68,955
Consulting Fees	\$ 18,000
Other	\$ 7,384
FY2012 Total Revenue*	\$2,839,401



*For a more comprehensive look at our audited finances for FY2012, visit www.aclum.org/2012.



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Background photo of journalist Amy Goodman and civil rights hero Harry Belafonte at the ACLU of Massachusetts 2012 Bill of Rights Dinner. For information about hosting, sponsoring or attending the 2013 Dinner, please visit aclum.org/dinner. Photo by Marilyn Humphries

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