

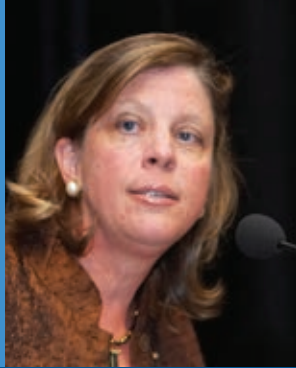


# 2013 ACTION REPORT

American Civil Liberties Union of Massachusetts



# A MESSAGE FROM OUR EXECUTIVE DIRECTOR



DEAR FRIEND AND SUPPORTER OF THE ACLU,

It's been a roller-coaster year for civil rights and civil liberties. A U.S. Supreme Court victory for same-sex couples gave cause for celebration, while the Court's decision to cut back the Voting Rights Act reminds us that the work of freedom is never done. Meanwhile, leaks by NSA whistle-blower Edward Snowden exposed a vast national surveillance dragnet targeting everyone and, in so doing, threatening public safety, civil liberties and democracy itself.

Through it all, the ACLU remains the first line of defense for constitutional rights, and the last line of defense for the most vulnerable: the disenfranchised, the marginalized, the wrongly accused, free-thinkers and dissidents. The ACLU was counsel in a record six cases in the 2012-13 Supreme Court term, and participated as either direct counsel or *amicus curiae* in nearly a quarter of the Court's cases, including the landmark victory in *U.S. v. Windsor*, striking down the discriminatory "Defense of Marriage Act."

Locally, the launch of two interrelated initiatives, *Technology for Liberty* and *Justice for All*, uniquely positions the ACLU of Massachusetts to build a constituency for privacy and civil liberties in the nation's hub of innovation and liberty. Together with State House leaders, we've introduced privacy bills that ensure freedom of political speech and protection against unchecked government surveillance from technologies such as drones, license plate readers and biometric scanners. In the courts, the ACLU of Massachusetts this year successfully fought warrantless laptop searches at the airport, and challenged GPS and cell phone tracking without a warrant.

By ensuring that law keeps pace with rapid changes in technology, the ACLU defends not only individual liberties but the very fabric of our democracy. By protecting the private sphere in which people learn, love, dissent, exchange ideas, engage in political activity and practice their faith (or not), our *Technology for Liberty* project promotes individual liberty, innovation and creativity—hallmarks of a free and prosperous society.

Our *Justice for All initiative*, meanwhile, focuses on ensuring that the liberties guaranteed by our Constitution and Bill of Rights extend equally to all, without fear or favor. Promoting education over incarceration, the ACLU of Massachusetts advocates shutting down the school-to-prison pipeline. We challenge overuse of school-based arrests and expulsions and promote instead alternative forms of school discipline and conflict resolution.

Likewise, ACLU of Massachusetts lawyers this year won key court victories challenging wrongful convictions based on fraudulent evidence as well as indefinite detention without due process. The ACLU of Massachusetts also led efforts to ensure the right to vote in the last election, following reports of voter intimidation in Worcester and Springfield.

National ACLU founder Roger Baldwin once said, "No fight for liberty ever stays won." But so long as the ACLU is on the frontlines of liberty, in Massachusetts and nationwide, the rights guaranteed in our Constitution and Bill of Rights have a fighting chance not only to survive, but to thrive for generations to come.

Thank you for your support of the ACLU's work to ensure liberty and justice for all!

Carol Rose,  
Executive Director

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# ACLU ADVOCACY

The ACLU of Massachusetts uses an integrated advocacy approach—involving litigation, education, organizing and advocacy at the local, state and federal levels—to protect and defend civil liberties in four key areas, reflecting priorities set by our Board of Directors and Foundation Trustees: **Liberty** (including privacy, government surveillance and protection for personal autonomy); **Justice** (including police practices and over-incarceration); **Equality** (including racial justice and immigrants', women's and LGBT rights) and **Democracy** (including freedom of speech and association, voters' rights and government transparency).

While maintaining an active docket in all these issue areas, we are working to build two distinct yet synergistic advocacy initiatives, to expand and enhance civil rights and civil liberties in the 21<sup>st</sup> century:

## JUSTICE FOR ALL

Civil rights activism over generations has led to important gains in legal, political, social, employment, educational and other spheres, but our country has yet to break free from a system of racial injustice—from public educational institutions where students of color are too often confined to racially isolated, underfunded and inferior schools, to a criminal justice system that disproportionately targets and incarcerates people of color, to anti-immigrant legislation that codifies racial discrimination, and housing that is starkly segregated by race and class.

The goal of the **Justice for All Project** is to ensure that equal protection and due process protections guaranteed by the Constitution and Declaration of Rights are extended to all people in the Commonwealth, regardless of race, ethnicity, religion, sexual orientation or gender identity.

## TECHNOLOGY FOR LIBERTY

A constant stream of new technologies is surpassing existing legal protections for individual rights, and greatly expanding the power of the government to peer into our lives without due process or meaningful oversight.

The goal of the **Technology for Liberty Project** is to ensure that rights to speech, association and privacy are strengthened by new technologies, and to protect core liberties against intrusive corporate and government practices that deploy new technology to undermine basic rights.

Together, these projects will enable the ACLU of Massachusetts, in concert with the national ACLU, to lead the fight to break down the architecture of surveillance, while defending the groups and people who are the first and most frequent targets of surveillance and oppression.

### Justice for All Advocacy Priorities

- *Defend the human rights and civil liberties of the most common targets of surveillance: immigrants, people of color, poor people, whistle-blowers, dissidents and free-thinkers*
- *Promote education over incarceration, and shut down the school-to-prison pipeline*
- *Build safer communities by improving police practices and ending racial disparities in law enforcement*
- *End over-incarceration by advocating for alternative sentencing options*

### Technology for Liberty Advocacy Priorities

- *Ensure that rights to speech, association and privacy are strengthened rather than compromised by new technology*
- *Defend guarantees of due process and ensure that our system of checks and balances keeps pace with rapid developments in technology*
- *Build a public constituency for privacy protections*
- *Foster government transparency*
- *Create alliances between the civil liberties and technology communities, to promote technology in the service of liberty*



Jessie Rossman



Carl Williams

In 2013, your support enabled us to hire new attorneys, Jessie Rossman and Carl Williams, to staff the *Technology for Liberty* and *Justice for All* projects.

**Photo credits:** Cover, clockwise: ACLU supporters, including staff attorney Sarah Wunsch and her partner Chris Ernst, marched in the 2013 Boston Pride Parade (photo by Marilyn Humphries); ACLU client Clayton Richard Gordon with his son; James Esseks, Director of the ACLU Lesbian Gay Bisexual Transgender & AIDS Project and co-counsel to ACLU client Edie Windsor (right) in her challenge to DOMA; ACLU attorney Laura Rótoló at a demonstration for immigrants' rights in Boston. This page, background photo by Russell Graves.

# Liberty • Justice



## ACLU TAKES FIGHT FOR PRIVACY TO MASSACHUSETTS SUPREME JUDICIAL COURT

Affiliates in every state uniquely position the ACLU to fight domestic spying at all levels.

Here in Massachusetts, we filed an amicus brief in *Commonwealth v. Rousseau*, in which the state Supreme Judicial Court ruled this year that extended GPS surveillance requires judicial oversight and probable cause. Legal Director Matt Segal explained, "This ruling is a huge victory for anyone who doesn't want the government tracking their movements. Although this case concerned a specific passenger, the SJC made clear that its ruling applies to essentially everyone in Massachusetts."

Pending ACLU case *Commonwealth v. Augustine* challenges the Commonwealth's claim that residents have no constitutionally protected interest in the cell site location information (CSLI) automatically generated by cell phones. The ACLU of Massachusetts argued that getting such detailed locational information should require a warrant.

Learn more at [aclum.org/csli](http://aclum.org/csli)

## ACLU "YOU ARE BEING TRACKED" REPORT WARNS ON LICENSE READERS

Police nationwide track innocent people with automatic license plate readers scanning thousands of cars per minute, storing information for years with no suspicion of a crime.

ACLU public records requests to more than 300 police departments detailed in the *You Are Being Tracked* report found significant disparities in how authorities handle this data, often keeping it longer than necessary for public safety.

"Police departments should not use databases lacking adequate private protections," says Kade Crockford, Project Director of our Technology for Liberty initiative. "We need legislation that allows police to use these tools while still protecting the associational privacy of every Massachusetts resident."

Read more at [aclu.org/alpr](http://aclu.org/alpr)

## ACLU WINS BOND HEARING AND CHALLENGES "MANDATORY DETENTION" OF IMMIGRANTS

A federal judge ruled in October—as part of an ACLU class-action lawsuit—that authorities must give ACLU client Clayton Richard Gordon a chance for release on bond from "mandatory" immigration detention.

The government's misapplication of the law subjects more than 50 people at any given time in Massachusetts to mandatory detention, even though immigration laws entitle them to consideration for release on bond during immigration-removal proceedings. Worse yet, authorities detain people months or years after their release from custody for other offenses.

Authorities re-arrested our client Mr. Gordon (shown here with his fiancée and son) in June 2013 and detained him based on a 2008 drug offense for which he spent less than one day in jail. Since that original arrest, Mr. Gordon had restarted his life: purchasing a home with his fiancée, starting a family and overseeing creation of a transitional home for formerly incarcerated single mothers. They all await his return.



## ACLU CHALLENGES WORCESTER PANHANDLING ORDINANCES

An ACLU lawsuit filed in May argues that Worcester panhandling ordinances violate rights to free speech and equal protection, since the ordinances target poor people asking for change. The ordinances prevent people from holding signs asking for help starting half an hour before dusk and prohibit standing on traffic islands. This not only affects the poor, but also those campaigning for political office, hosting clothing drives, and even Girl Scouts trying to sell cookies.



# AMERICAN CIVIL LIBERTIES UNION



Photo by Marilyn Humphries

## ACLU CHALLENGES NSA SPYING

Journalist Glenn Greenwald warned about domestic spying at the ACLU of Massachusetts 2011 Bill of Rights dinner. Then, within days of Greenwald's revelations from whistleblower Edward Snowden this summer, the national ACLU challenged the constitutionality of NSA phone spying.

We argue that unchecked collection of the records for every phone call within, from or to the U.S. violates First Amendment rights of free speech and association and the Fourth Amendment right to privacy. We also back the new USA Freedom Act, which would roll back the infamous Patriot Act, including the illegal call tracking program.

**Revisit Greenwald's 2011 speech:**  
[aclum.org/greenwald](http://aclum.org/greenwald)

## ACLU FIGHTS THE WAR ON DRUGS

We want justice for tens of thousands of people sentenced with tainted evidence from the Hinton state drug lab. Fueled by Massachusetts Supreme Judicial Court rulings that defendants can have their sentences put on hold, the ACLU wants prosecutors to show which sentences should stand, instead of requiring victims of drug lab fraud to prove their innocence.

In April, the SJC ruled in another case that socially sharing marijuana isn't "criminal distribution." The ruling, which endorsed arguments in an ACLU brief, honors the 2008 Massachusetts vote to decriminalize possession of up to one ounce of marijuana.

The ACLU also exposed racial disparities in drug-related arrests. Our report *The War on Marijuana in Black and White* found that African-Americans in Massachusetts get arrested at 3.9 times the rate for whites.



## ACLU RESPONDS TO MARATHON ATTACKS AND AFTERMATH

In the days following the attack on the Boston Marathon, the ACLU warned in national media interviews against racial or religious profiling and against knee-jerk calls for more surveillance. Since then, we have offered new "know your rights" trainings for affected communities.

During the chaotic manhunt, the ACLU contacted legal counsel for both the city and state for assurances about the limits of the shelter-in-place request. And when authorities arrested suspect Dzhokhar Tsarnaev, the ACLU spoke up for due process. More recently, we submitted an amicus brief in a challenge to unusual restrictions imposed on Tsarnaev's federal public defenders. And after agents shot Tamerlan Tsarnaev's friend Ibragim Todashev during questioning in Florida, we called on Commonwealth officials to independently investigate the role of the Massachusetts State Police.

Photo by Gabriel Camacho



## ACLU ENDS OVERCROWDING AT CAMBRIDGE JAIL

Hundreds of pretrial detainees no longer sleep on floors in a Cambridge jail lacking adequate toilet and shower facilities, thanks to a lawsuit spearheaded by the ACLU and Prisoners' Legal Services. A judge in June ordered that no more than 230 people be held in the Middlesex County Jail, originally built for 160 but which in recent years has housed nearly 400.

## ACLU BACKS TRUST ACT TO PROTECT IMMIGRANTS

The “Secure Communities” federal immigration dragnet has deported more than 1,000 people from our state since 2008—breaking apart families, wasting tax dollars and damaging public safety. The ACLU works to protect immigrants through our support of the TRUST Act, which seeks to establish standards for when local police can follow federal requests to detain people for deportation.



## ACLU ENSURES REPRODUCTIVE HEALTH ACCESS FOR HUMAN-TRAFFICKING SURVIVORS

Without ACLU legal action, survivors of human trafficking in need of reproductive health services—including those trafficked for sex—could have been denied much-needed contraceptive or abortion services.

During the Bush administration, the U.S. Department of Health and Human Services allowed the U.S. Conference of Catholic Bishops to impose religious restrictions on health services provided with taxpayer dollars. In the context of an ACLU lawsuit, the Obama administration in January refused to renew the USCCB contract.

## SUPREME COURT RULES UNANIMOUSLY FOR ACLU STAND AGAINST GENE PATENTING

You have the right to your own genes! That’s what the U.S. Supreme Court said in a 9–0 ruling on a lawsuit brought by the ACLU and Public Patent Foundation. The Court invalidated patents on genes associated with breast and ovarian cancer.

ACLU client Lisbeth Ceriani of Newton—a breast-cancer survivor shown here with her daughter—joined scientists, cancer survivors and women’s health groups in the challenge. Ceriani faced paying over \$4,000 for testing by a company claiming ownership of the genes. After the ruling—which opens opportunities for testing and research by others, not just the patent-holder—Ceriani said, “I’m relieved no other women will have to go through what I went through.”



## ACLU WINS AGAINST SUSPICIONLESS AIRPORT SEIZURES

The ACLU won justice for David House, the Massachusetts activist whose electronics the Department of Homeland Security seized in 2010 while he worked for the legal defense of Wikileaks source Chelsea (then Bradley) Manning. The ACLU argued that the airport seizure of House’s laptop, camera and USB drive constituted unreasonable search and seizure under the Fourth Amendment, and violated his First Amendment right to freedom of association. In May, the U.S. agreed to destroy its copies of Mr. House’s data.

# Equality • Democracy

## ACLU DEMOLISHES FEDERAL DISCRIMINATION AGAINST MARRIED GAY COUPLES

The Supreme Court ruled in favor of the ACLU challenge to the 1996 “Defense of Marriage Act,” striking DOMA down as unconstitutional.

The law forced ACLU client Edie Windsor to pay more than \$363,000 in federal estate taxes after her spouse Thea Spyer died, because federal law recognized only the marriages of heterosexual couples.

This victory gave an estimated 130,000 married gay and lesbian couples nationwide immediate access to more than 1,100 previously denied federal benefits, including eligibility for family medical leave, Social Security survivor’s benefits, access to health care for a spouse and the ability to sponsor a spouse for citizenship.

*James Esseks, co-counsel in ACLU client Edie Windsor’s challenge to DOMA and Director of the ACLU Lesbian Gay Bisexual Transgender & AIDS Project, discussed the future of LGBT rights with ACLU supporters in Boston weeks before the Supreme Court struck DOMA down.*

*Photo by Marilyn Humphries*



## FROM PHONES TO DRONES, ACLU CHAMPIONS MASSACHUSETTS PRIVACY BILLS

The ACLU of Massachusetts leads the charge this legislative session to protect you from unchecked monitoring by law enforcement. ACLU supporters sent more than 14,000 emails and made hundreds of calls to legislators, urging warrant requirements for phone, internet and location tracking, regulating drone use and automatic license plate readers, and ending surveillance of political activity.

## MEDICAL MARIJUANA: VICTORY JUST THE FIRST STEP

The ACLU worked to pass the 2012 Massachusetts initiative legalizing use of medical marijuana. Now we want to ensure successful implementation.

We fought efforts to thwart the law, successfully urging Attorney General Coakley to reject bans on medical marijuana treatment centers passed in towns like Wakefield. The ACLU also advises the state Department of Public Health on regulations and procedures for marijuana dispensaries, and helps patients and their families navigate the new system.

## ACLU DEFENDS BC STUDENTS DISTRIBUTING CONDOMS

Boston College backed down in March after the ACLU supported a group of students threatened with discipline for distributing condoms and sexual health information in dorms. “The college has the right to express its religious views and seek to persuade, but it cannot threaten students with discipline for providing a lawful product constitutionally protected as part of reproductive freedom,” explained ACLU of Massachusetts attorney Sarah Wunsch.

## ACLU SPURS UNANIMOUS CAMBRIDGE CITY COUNCIL VOTE FOR PRIVACY

We spoke. They listened. Days after testimony from our Executive Director Carol Rose, joined by Harvard Law Professor Ron Sullivan (shown here)—as well as dozens of Cambridge residents and ACLU supporters concerned about privacy—the City Council voted unanimously to require its approval before turning on surveillance cameras partly financed by the Department of Homeland Security. This win for privacy helps ensure government oversight and that decisions affecting civil liberties remain in the hands of elected representatives.



# THE ACLU DEPENDS ON YOU!

As a non-profit (as well as non-partisan) organization, the ACLU depends entirely on the voluntary support of individual people and private foundations who share our values and our commitment to protecting the constitutional rights of every person in our country. We do not charge clients for legal representation, and do not accept government funding in order to ensure our absolute and unequivocal independence. We work for you, and rely on you!

Thank you for being one of the almost 20,000 people in Massachusetts and 500,000 across the nation who express your commitment to liberty and justice for all through your support of the ACLU. Space limitations prohibit us from listing the names of every supporter, but please know that we are deeply grateful for every gift we receive—and that the power of the ACLU comes from the combined impact of thousands of committed supporters. We thank and salute you for your support of the ACLU's critical work!

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

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*Executive Director Carol Rose and Board member J.B. Kittredge salute supporters at the 2013 Bill of Rights Dinner.*

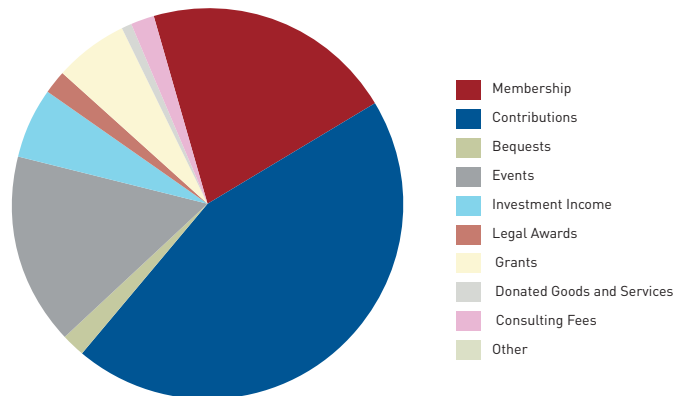
*Photo by Marilyn Humphries*

## FISCAL YEAR 2013 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 the Commonwealth. 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/2013](http://www.aclum.org/2013).

## Combined ACLU of Massachusetts and ACLU Foundation of Massachusetts Revenue for FY2013

|                             |                     |
|-----------------------------|---------------------|
| Membership                  | \$ 509,266          |
| Contributions               | \$ 1,086,468        |
| Bequests                    | \$ 53,077           |
| Events                      | \$ 391,410          |
| Investment Income           | \$ 135,096          |
| Legal Awards                | \$ 43,806           |
| Grants                      | \$ 135,750          |
| Donated Goods and Services  | \$ 27,697           |
| Consulting Fees             | \$ 49,900           |
| Other                       | \$ 8,318            |
| <b>FY2013 Total Revenue</b> | <b>\$ 2,440,788</b> |



**ACLU OF MASSACHUSETTS**

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