

## REPRODUCTIVE JUSTICE



**ACLU fights for reproductive freedom at U.S. Supreme Court:** Staff attorney Jessie Rossman (left) and legal fellow Hallie Pope rally for reproductive rights alongside thousands of advocates on the steps of the Supreme Court during the March 2 hearing in *Whole Woman's Health v. Hellerstedt*, in which the ACLU filed a brief. If the Court upholds the law, Texas and other states with similar laws could force many of their clinics to close, making it nearly impossible for many people to get a safe, legal abortion. Learn more: [aclum.org/scotus](http://aclum.org/scotus)

## VICTORY! TECHNOLOGY FOR LIBERTY

### ACLU wins lift on seal in federal court in Massachusetts

Amid nationwide controversy around the FBI's attempts to force Apple to circumvent its encryption technology, the U.S. District Court for the District of Massachusetts in April responded to an ACLU of Massachusetts motion to unseal basic information about a similar case in Boston. The move came in response to research conducted by the ACLU of Massachusetts and the national ACLU, which revealed more than 60 cases nationwide in which the government invoked the All Writs Act of 1789 to try conscripting tech companies to break into personal electronic devices.

"The FBI would have us believe that their attempt to force Apple to access data on a locked iPhone was an

*Continues p. 3*

## SMART JUSTICE

### ACLU defends legal safety valve for harsh mandatory minimum drug sentences

In April, the ACLU of Massachusetts—together with retired federal judge Nancy Gertner and dozens of legal, community, and religious organizations—asked the state's high court to rule that "mandatory" minimum sentencing in Massachusetts is not, in fact, strictly mandatory in every case. The ACLU and our allies argued that the Supreme Judicial Court should enforce a safety valve passed by the state legislature in 1996, which in certain cases permits sentences below the otherwise applicable minimum sentence. Without this safety valve, the ACLU argued that Massachusetts' mandatory minimum drug sentences are unconstitutional.

The case, *Commonwealth v. Laltaprasad*, arose in 2015 when Superior Court Judge Shannon Frison imposed a 2½-year sentence instead of the 3½-year mandatory minimum triggered by Mr. Imran Laltaprasad's drug

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## POLICE ACCOUNTABILITY

### Roxbury resident alleges policies of MBTA resulted in transit officers beating her and violating her free speech rights

In April, Roxbury resident Mary Holmes added the MBTA as a defendant in the civil rights lawsuit she brought last summer against two of the agency's transit officers for police brutality and the violation of her constitutional right to free speech. Ms. Holmes, who is represented by the ACLU and Howard Friedman, was pepper-sprayed, beaten, and arrested at the Dudley Square station after she spoke out to prevent MBTA police from abusing a person in her community.



ACLU client Mary Holmes has sued the MBTA. Photo by Carl Williams

Holmes' attorneys filed the amended complaint after finding the MBTA repeatedly ignored signs of trouble regarding one of the officers responsible for Holmes' violent treatment and arrest, then-officer Jennifer Garvey (formerly Jennifer Amyot). The MBTA was aware of Garvey's violent tendencies prior to hiring her, and overlooked more than a dozen recorded incidents on the job.

"Our client, Mary Holmes, added the MBTA to this lawsuit in the hopes of ensuring that no one needs to endure what she did—abuse at the hands of the very officers who have the duty to protect people," said Carl Wil-



*Continues p. 4*

**ACLU OF MASSACHUSETTS**  
**BILL OF RIGHTS DINNER**  
**TUESDAY MAY 31, 2016**

Boston Marriott Copley Place Hotel | Boston  
Reception 5:30 PM | Dinner 6:30 PM

Featuring Bryan Stevenson  
Celebrating Harvey Silverglate  
and Elsa Dorfman

Purchase tickets at  
[aclum.org/dinner](http://aclum.org/dinner)

FROM THE EXECUTIVE DIRECTOR

ACLU: Defending liberty and democracy in an election year

By Carol Rose



Carol Rose

In the midst of this bizarre and disquieting election year, it's easy to feel discouraged about the state of American politics.

So, here's a message of hope.

Since the ACLU was founded in 1920, there have been 17 presidents

in the White House. They've come and gone, some better—and a few much worse—than others. Throughout, the ACLU has remained steadfast in our nonpartisan mission of promoting civil rights and defending civil liberties—regardless of who's in office.

We know that elections matter—and this one matters a lot. But we also know that, no matter who gets elected, America needs the ACLU as an independent voice for civil rights and civil liberties, ready to meet challenges and seize opportunities to promote equal justice for all. For us, it's about principles, not popularity.

Because elections matter, the ACLU's mission includes defense of both democracy and liberty. These terms are not synonymous, and we need both to be truly free.

Democracy is the promise that each person gets a fair and equal vote. This year, 10 states will be putting into place new restrictive voting laws, ranging from barriers to registration to voter ID requirements. Collectively, these 10 states are home to over 80 million people and will wield 129 of the 270 electoral votes necessary to win the presidency. Fortunately, the ACLU is on the ground in those states, challenging restrictive voting laws in Wisconsin, North Carolina, Texas, Kansas, and elsewhere. At the same time, we are working to achieve greater access to the ballot by pressing for same-day voter registration here in Massachusetts.

The ACLU's democracy work also includes our legislative efforts to fix the broken Massachusetts public records law, which ranks among the worst in the nation. We know that democracy dies behind closed doors. That's why the ACLU remains dedicated to shining sunlight on government in Massachusetts and nationwide.

Liberty, in contrast, is the idea that each person's inalienable rights are protected against the tyranny of the majority. So, while the ACLU works to ensure fair voting and open government, we also defend fundamental lib-

erty interests that cannot be taken away, even by popular vote. These liberties—codified in our Bill of Rights—include due process, fair trials, free speech, freedom of the press, religious liberty, right to association, and equality. Especially in times of tyranny, the ACLU's liberty work is paramount.

Our liberty work includes our defense of equal access to reproductive health care for all families—rich and poor alike. From Texas to Mississippi, and here in Massachusetts, the ACLU plays a lead role in stopping efforts to ban public funding for abortions and working to expand equal access to contraception, abortion, and reproductive health care for all.

Our commitment to equality is clear in the ACLU's challenge to laws in North Carolina and elsewhere that would permit discrimination against LGBTQ people. In Massachusetts, we are part of the coalition working to pass laws protecting transgender Bay State residents from discrimination under our state's public accommodation law.

Our impact on the justice system is evident in our victories on behalf of tens of thousands of Massachusetts residents wrongfully convicted as a result of recent drug lab scandals. It also is reflected in our successful efforts to stop racially discriminatory stop-and-frisk police practices, to end the failed war on drugs, and to close down the school-to-prison pipeline.

Our dynamism is palpable in the ACLU's ability to mobilize high-tech leaders to raise the alarm and block FBI efforts to secretly conscript private businesses to do the dirty surveillance work of the government.

As this issue of *The Docket* illustrates, our work defending democracy and promoting liberty takes place in the courts, in the press, in the State House and halls of Congress, and in cities and towns throughout Massachusetts and the nation. We call this multifaceted approach "integrated advocacy."

All of this is possible only because of your support. As an ACLU member, you are part of the nationwide ACLU network of civil rights and civil liberties champions. As part of the ACLU of Massachusetts, you are part of our first-in-the-nation integrated advocacy approach to defending civil rights and civil liberties.

So, this election season, be sure to exercise your franchise by voting for the candidates of your choice. Then, after you vote, take a moment to renew your ACLU membership and sign up for our e-action alerts: [aclum.org/email](http://aclum.org/email).

Democracy and liberty depend on it. ■

No matter who gets elected, America needs the ACLU to be an independent voice for civil rights and civil liberties.

BILL OF RIGHTS DINNER

The ACLU of Massachusetts honors Bryan Stevenson at our 2016 Bill of Rights Dinner on May 31. Bill Newman, director of our Western Massachusetts Legal Office, met the civil rights hero in 1986.

Meeting Bryan Stevenson

By Bill Newman

I want to share with you a story about compassion and courage, life and death, despair and jubilation. I want to tell you about Bryan Stevenson.

In 1986, I traveled to Georgia to meet Stevenson, an African-American attorney who grew up in the 1960s in the segregated, Confederate flag-displaying eastern shore of Maryland.



Visionary social justice advocate and founder of the Equal Justice Initiative Bryan Stevenson. Photo by Nina Subin

He and I were representing a young man on Georgia's death row. I had not previously worked on a capital case. In contrast, most of Bryan's clients were on the row.

When I arrived at his office address, I found no sign, no lights, and the door dead-bolted. The reason for the anonymity, I would soon learn, was bomb threats directed at him and his colleagues at the Southern Prisoners Defense Committee.

That week, Bryan and I spent a day combing through boxes of exhibits in a back room of the clerk's office in the courthouse where our client's trial had been held. We also interviewed local witnesses and visited the scene of the crime.

As twilight approached and we headed back to Atlanta, a three- or four-hour drive through largely deserted swaths of south Georgia, I commented on the large white American car tailing us. In as lighthearted a tone as I could muster, I asked Bryan what the odds were that we were about to die.

He responded, "Really, Bill. I don't think the odds are that high." He kept a straight face.

I then reminded Bryan that I lived in Northampton, where if we have two OUIs on a Friday night we consider it a crime spree, and when I ask him

Desmond Tutu describes our 2016 honoree Bryan Stevenson as "America's young Nelson Mandela."

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**ACLU OF MASSACHUSETTS**

**2016 BILL OF RIGHTS DINNER**

**TUESDAY MAY 31**

**Boston Marriott Copley Place Hotel**  
110 Huntington Avenue, Boston

**Reception 5:30 PM | Dinner 6:30 PM**  
Standard Ticket Price \$200

**Featuring Bryan Stevenson**  
Celebrating Harvey Silverglate and Elsa Dorfman

**Buy tickets now at [aclum.org/dinner](http://aclum.org/dinner)**



## TECHNOLOGY FOR LIBERTY

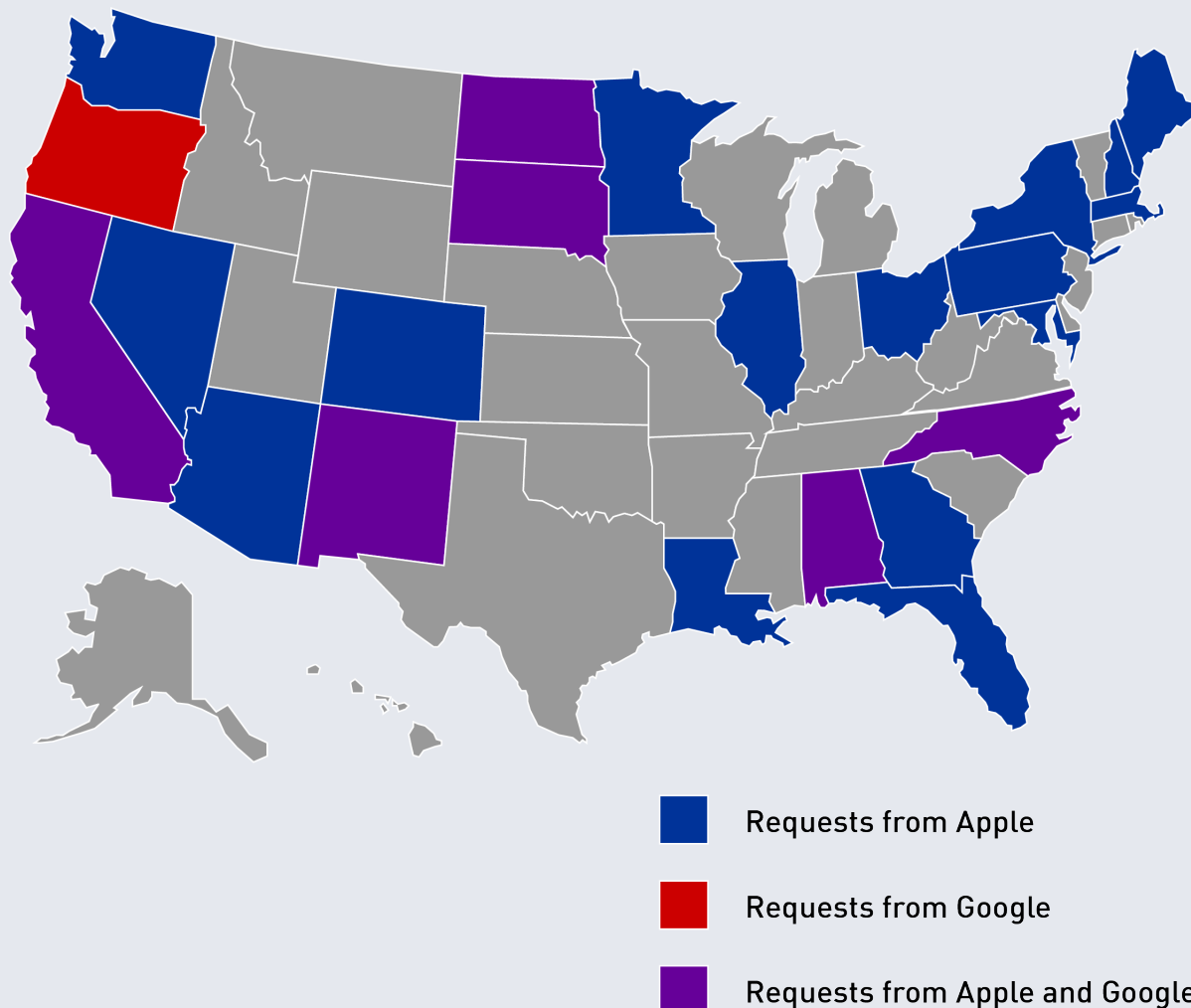
## FBI v. Apple: Not just one phone

In March, research by the ACLU of Massachusetts and national ACLU revealed more than 60 cases nationwide in which the government invoked the All Writs Act of 1789 to try conscripting Apple and Google to help unlock mobile devices and give law enforcement access to the data they contain. We compiled this information based on publicly available documents filed with federal courts.

Learn more here: [aclum.org/allwrits](http://aclum.org/allwrits)

- View the interactive map of All Writs Act cases nationwide
- Read our legal director Matthew Segal's piece in *Slate*: "Lessons From the Government's 63 Prior Attempts to Make Tech Companies Unlock Devices"
- Read "What Apple's fight with the FBI means for Massachusetts" in the *Boston Globe*, by Paul Sagan, executive in residence at General Catalyst Partners and the former CEO of Akamai Technologies of Cambridge, and Colin Angle, the cofounder, CEO and chairman of iRobot, based in Bedford. ■

## All Writs Act Orders for Assistance From Tech Companies



## TECHNOLOGY FOR LIBERTY

## ACLU uncovers cases similar to FBI v. Apple in Massachusetts and nationwide

*Continued from p. 1*

exceptional case—one involving a phone belonging to one of the accused terrorists in San Bernardino, California,” said Jessie Rossman, staff attorney with the ACLU of Massachusetts. “This is not true. The cases we found go back as far as 2008 and span more than 20 states, targeting Apple, but also companies such as Google and others.”

The existence of documents in legal cases is almost universally made public—yet in the cases the ACLU identified, many of the individual documents (including All Writs Act applications and orders) are sealed.

“We filed our motion to unseal this case because we believe that the public’s rights will not be respected if they are not litigated openly,” said Matthew Segal, ACLU of Massachusetts legal director. “Now that the government has agreed that this case should be unsealed, and now that a court has unsealed it, we hope that undue secrecy will not occur in the next case or in any other pending case. This was an important first step. Now that this basic information is publicly available, we will look closely at the documents to determine any potential next steps.”

While the All Writs Act has been used for more than two centuries to help ensure cooperation with legitimate investigations, the government’s attempt to use it against digital encryption represents something new. Instead of merely asking tech companies to turn over something that they already have, the government has sought to force these companies to create something that does not currently exist: new code that would make it easier for authorities to get around security measures.

“Hundreds of millions of ordinary people worldwide rely on secure technology every day for business transactions and personal communication. Our national debate over this critical issue must take place in full public view,” said Carol Rose, ACLU of Massachusetts executive director. ■

## SMART JUSTICE

## ACLU defends legal safety valve for harsh mandatory minimum drug sentences

*Continued from p. 1*

convictions. Judge Frison found the statutory minimum inappropriate because Mr. Laltaprasad was responsible for only small amounts of drugs and because he had been grievously hurt, including having his leg amputated, in an incident that preceded his offenses.

On appeal to the Massachusetts Supreme Judicial Court, the Commonwealth has claimed that judges can never impose below-minimum sentences. But a state law passed in 1996 permits sentences below the otherwise applicable statutory minimum if a judge deems the minimum inappropriate. This law authorized Judge Frison to impose a 2½-year sentence in this case.

“While liberals and conservatives all around the country increasingly agree that mandatory minimum drug sentences are ineffective at deterring crime and wreak havoc on local communities, the District Attorney’s Office is trying to wipe out a safety valve that would alleviate some of these harsh impacts,” said retired federal judge Nancy Gertner, who is also co-counsel for Mr. Laltaprasad. “That is both unwise and a misinterpretation of Massachusetts law.”

“The Superior Court viewed all the evidence and correctly recognized that Mr. Laltaprasad did not deserve a mandatory minimum sentence,” said attorney Keith Nicholson, who serves as co-counsel on the case with the ACLU of Massachusetts.

“Mandatory minimums have created shameful racial disparities, put sentencing decisions in the hands of prosecutors, and strapped vulnerable, drug-addicted individuals with years of imprisonment,” said ACLU of Massachusetts legal director Matthew Segal. “This is not the system that the legislature mandated. Instead, the legislature created a safety valve providing some relief from these unjust sentences, and it is time for the safety valve to be enforced.” ■

## VICTORY! REINING IN THE DRUG WAR

## ACLU sparks reform of decades-long practice of imprisoning women suffering from addiction

Responding to a class action lawsuit filed in 2014 by a coalition of groups—the ACLU, Prisoners’ Legal Services, the Center for Public Representation, and the law firm WilmerHale—the Massachusetts legislature in January 2016 passed a measure reforming a state civil commitment law, known as Section 35, under which women suffering from drug or alcohol addiction had been imprisoned without treatment at MCI-Framingham. Gov. Baker signed the reform into law.

“We are glad that our lawsuit led to the passage of this bill,” said ACLU of Massachusetts staff attorney Jessie Rossman. “No one should go to prison for suffering from addiction. It’s unconstitutional and it reduces the chances for successful rehabilitation.”

In recent years, hundreds of civilly committed women have been sent to MCI-Framingham under Section 35. Like other prisoners, they are strip-searched, subjected to body-cavity inspections, and deprived of their personal possessions and dignity. But unlike other prisoners, they cannot go to the prison chapel, make use of exercise equipment and other indoor facilities except for limited use of the prison library, and—paradoxically—they cannot access addiction treatment programs.

Massachusetts is the only state in the nation that incarcerates people suffering from addiction who have not been convicted of crimes. Our ongoing lawsuit, *Doe v. Baker*, alleges that this practice violates due process and discriminates based on disability. ■



The American Civil Liberties Union of Massachusetts publishes *The Docket* once a year.

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[aclum.org](http://aclum.org)

## POLICE ACCOUNTABILITY

## “Do It Right”: ACLU presses for statewide adoption of model policy for police body-worn cameras

Despite nationwide outcry over police use of force and racial discrimination, cities and towns across Massachusetts have yet to respond adequately to the need for police accountability. So the ACLU and allied groups have taken the lead in pressing for solutions to help address these problems, including documenting racial disparities (for more, see [aclum.org/stopandfrisk](http://aclum.org/stopandfrisk)) and pressing for the adoption of police body-worn cameras to record police encounters with civilians.

This spring, the ACLU and allied groups launched a campaign called “Do It Right” to press Boston and other municipalities across the Commonwealth to begin using this technology in combination with sound policies. And last September, the Boston Police Camera Action Team (BPCAT), NAACP Boston Branch, and ACLU of Massachusetts released a model body-worn-camera policy, developed with residents and community groups in Boston and designed to ensure privacy and effectiveness.

“If combined with a policy that follows three core principles—accountability, privacy, and transparency—body cameras can deter misbehavior on both sides of the badge,” said Matthew Segal, legal director of the ACLU of Massachusetts.

At least 66 of the 100 biggest police departments nationwide have either implemented or are planning to implement police body-worn cameras. In contrast, Boston and most other cities and towns in Massachusetts have not even begun.

Go to [aclum.org/cams](http://aclum.org/cams) to learn more. ■



## OPEN GOVERNMENT

## State Senate passes strong public records reform bill, needs reconciling with House version

Thanks to tireless lobbying by the ACLU and online advocacy from thousands of ACLU supporters, the state Senate in February unanimously passed a strong public records reform bill that has the potential to restore open government in Massachusetts. Lawmakers are now working to reconcile the differences between that bill and one passed by the state House in November 2015.

Government transparency is a prerequisite for accountability, and the ACLU will continue to urge the legislature to swiftly pass reforms that increase access to public information—especially a serious enforcement mechanism to give the law “teeth.”

Take action on government transparency and other issues at [aclum.org/action](http://aclum.org/action) ■

## BILL OF RIGHTS DINNER

## Meeting civil rights hero Bryan Stevenson

*Continued from p. 2*

about the odds that we’re about to die, he’s got to do better than “not too high.” We shared a big laugh.

But after the car behind us turned off the highway, I asked him seriously whether his work ever made him afraid. He described driving to a small rural town to meet a newly charged Black murder client, past a hand-scrawled sign that said “Welcome to Klan Country.”

*Just Mercy*, Stevenson’s exquisitely written memoir and exposé, uses as its lodestar the story of his death-row client Walter McMillian. Mr. McMillian was convicted of murder and sentenced to die even though he had absolutely nothing to do with the crime. Many factors contributed to this travesty—a mediocre at best trial attorney, police perjury, coercion of witnesses, the jury’s racism, and the venality and dishonesty of both prosecutors and judges.

Stevenson, who founded and directs the Equal Justice Initiative in Montgomery, does more than win freedom, life, new trials, and shorter sentences for people sentenced to die—a result he has achieved over 100 times. Those victories include the vindication and release of Walter McMillian after 10 years on death row. (In our case, with Greenfield attorney Buz Eisenberg having later joined our defense team, the death sentence was converted to life with the possibility of parole.) But there’s way more.

Stevenson’s arguments before the United States Supreme Court have stopped courts from imposing automatic life-without-parole sentences on kids; proven to the high court’s satisfaction ineffective assistance of trial counsel; and forged a way to challenge particularly heinous methods of execution. His successes have been extraordinary.

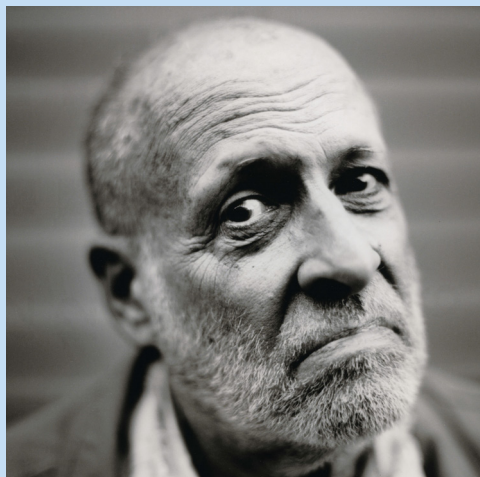
Please allow me this reflection: I don’t have many heroes. Generally speaking, for me, people are too flawed to enshrine them in my mind with that moniker. But one exception is Nelson Mandela—and Nobel Prize laureate Desmond Tutu describes Bryan Stevenson as “America’s young Nelson Mandela.”

I agree. For me, Bryan Stevenson is a hero.

Another personal note: I don’t cry often, but *Just Mercy* made me cry. The stories of botched executions, of abused and beaten children prosecuted as adults and condemned to die, of Vietnam vets whose bodies and minds were mangled in the jungles of Southeast Asia—these stories are that compelling.

In his introduction, Stevenson writes that we must measure our society’s commitment to fairness and equality not by how we treat the powerful and privileged but rather by how we treat “the poor, the disfavored, the accused, the incarcerated, and the condemned.” Ultimately, *Just Mercy* is not about Stevenson, his colleagues, his clients, or his adversaries. It’s about us. It’s about how anger and fear can make us so vindictive and unjust that we all suffer from the absence of mercy. As Bryan writes, “The closer we get to mass incarceration and extreme levels of punishment, the more...we all need mercy [and] justice, and—perhaps—some measure of unmerited grace.” ■

Hear from Bryan Stevenson—along with Harvey Silverglate and Elsa Dorfman—at the 2016 Bill of Rights Dinner on May 31: [aclum.org/dinner](http://aclum.org/dinner)



Harvey Silverglate



Elsa Dorfman

Photos by Nafis Azad

Using body-worn cameras during police-civilian interactions can, if done correctly, protect police officers and community members. City and town policies for body-worn cameras should involve:

## PARTICIPATION

- Engage the community to assess local priorities
- Use a public process to shape and approve policies
- Disclose policies and key footage to the public

## PRIVACY

- Prohibit recording without notice and, in private spaces, without consent
- Never surveil activists or use biometric analyses
- Promptly delete video that doesn’t involve the use of force, a complaint, or a detention or arrest

## PUBLIC ACCOUNTABILITY

- Limit officer discretion to turn off cameras
- Require officers to write initial reports before viewing camera footage
- Discipline officers who violate policy

## TECHNOLOGY FOR LIBERTY

## ACLU backs legislation to protect confidential healthcare information

Mental health professionals, addiction specialists, anti-domestic violence advocates, family planning providers, and the ACLU all agree: confidentiality is critical to enable patients to access the healthcare they need.

In February, the Massachusetts state Senate passed an ACLU-backed bill, *An Act to Protect Access to Confidential Healthcare*, which would establish mechanisms to ensure that when multiple people are on the same insurance plan, confidential healthcare information is not shared with anyone other than the patient against the patient’s wishes.

The ACLU, together with a broad coalition of advocates, continues to press the House to pass the bill this session and send it to Governor Charlie Baker’s desk for his signature. ■

## POLICE ACCOUNTABILITY

## Roxbury resident adds MBTA as defendant in lawsuit

*Continued from p. 1*

liams, staff attorney at the ACLU of Massachusetts. “The MBTA’s failure to properly screen Officer Garvey before hiring her and its failure to appropriately supervise her reflects systematic problems that the MBTA must address.”

Garvey was indicted in January on five charges related to the beating of Ms. Holmes—two felony charges of assault and battery with a dangerous weapon, two charges of filing a false police report, and one charge of violating Ms. Holmes’ civil rights.

“The MBTA has signs everywhere telling people ‘if you see something, say something.’ This is exactly what Ms. Holmes did. She saw something wrong, and she spoke out. We need more people to follow Ms. Holmes’ lead and do the same,” said Jessie Rossman, staff attorney at the ACLU of Massachusetts. “Unfortunately, the officers’ reactions are part of a broader, troubling trend, in which police officers mistreat individuals exercising their constitutional rights. It has to stop.” ■

TECHNOLOGY FOR LIBERTY

## What privacy rights do students have?

Many Massachusetts schools use highly invasive monitoring software on laptops and tablets they send home with students, sometimes without fully informing parents and youth about exactly what's going on or giving them an opportunity to opt out of the most invasive tracking. Our report, *Back to the Drawing Board: Student Privacy in Massachusetts K-12 Schools*, details findings such as these. The comic at right lays out basic concerns, and you can read the full report at [aclum.org/studentprivacy](http://aclum.org/studentprivacy)

We hope this work can serve as a resource for school communities—including parents, students, and educators—working to develop best practices to ensure Massachusetts youth can have the best access to technology while preserving their rights to privacy and security. ■

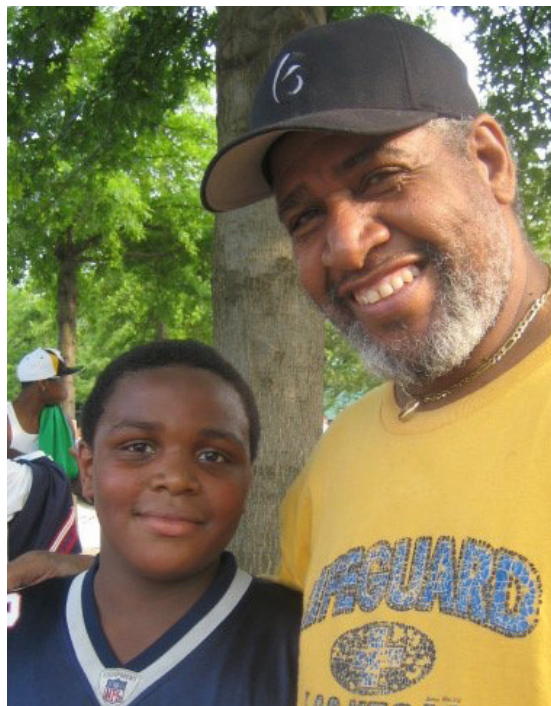
RACIAL JUSTICE, POLICE ACCOUNTABILITY

## Appeals Court affirms denial of immunity to Framingham SWAT officer who killed Eurie Stamps

In February, the U.S. Court of Appeals for the First Circuit affirmed that the officer who accidentally shot and killed Eurie Stamps cannot claim immunity from civil suit. Stamps—a 68-year-old Black man and grandfather of 12—was unarmed and lying on the floor with his hands up when he was shot by Framingham Police Officer Paul Duncan during a 2011 SWAT team raid on his home.

“Victims of undue police violence deserve constitutional protection, and this opinion says that they have it,” said Matthew Segal, legal director of the ACLU of Massachusetts. The ACLU and a broad coalition of groups supported this outcome in a brief filed in the case, *Stamps v. Town of Framingham*.

Officers raided Stamps’ home in 2011 because they believed that his stepson and two associates had been selling drugs. But they also knew that Mr. Stamps lived there, and they did not suspect him of committing any crime or posing any threat. Shortly after midnight, police broke through Mr. Stamps’ windows and doors and set off a “flash-bang” grenade to disorient anyone inside. Mr. Stamps complied with officers’ orders and got down on his stomach with his hands up. But the lawsuit alleges that, while other officers moved through the home, Officer Duncan placed Mr. Stamps’ life in danger by pointing an M-4 rifle directly at him with its selector on “semi-automatic” rather than “safe,” and with his finger on the trigger. He accidentally fired, killing Mr. Stamps. In court, Officer Duncan argued that he could not be held civilly liable because the shooting was an accident. ■



Eurie Stamps and his grandson Christian  
Photo courtesy of family

RIGHTS OF THE POOR

## ACLU fights criminalization of poverty in successful challenges to anti-panhandling bans

In powerful, unequivocal decisions late last year, two U.S. District Court judges struck down ordinances in both Lowell and Worcester that banned panhandling in large parts of those cities, as well as “aggressive” panhandling.

The ACLU and law firm Goodwin Procter brought the successful challenges, arguing that the ordinances amounted to constitutionally impermissible content-based restrictions leveled only at poor people asking for money.

“It is now clearly established that the First Amendment protects people who express themselves by spending millions of dollars. How can it fail to protect people who express themselves by asking for one dollar?” said ACLU of Massachusetts legal director Matt Segal.

Both Worcester and Lowell declined to appeal further, and the ACLU believes the rulings have sent a strong message to other municipalities that might have considered implementing similar bans.

In another case involving the rights of the poor, *Commonwealth v. Magadini*, the ACLU submitted a brief to the Massachusetts Supreme Judicial Court in November, arguing that the “necessity defense” applies in the case of a homeless man in Great Barrington. He trespassed into the hallway of the commercial section of mixed-use private property to shelter from bitter cold during the winter of 2014, when the nearest emergency shelter was 20 miles away. On that occasion and others, Great Barrington police informed him that he had violated a trespass order instead of helping him.

“This case presents an urgent question: how will our courts treat homeless people who trespass in order to survive?” said Jessie Rossman, staff attorney with the ACLU of Massachusetts. “Denying instruction to the jury to consider the necessity defense in this case was akin to criminalizing homelessness. It ignored the gravity of the danger during the bitterly cold winter of 2014, as well as forces beyond the control of individuals that contribute to homelessness in America.”

The SJC should issue its ruling in the case this spring. ■

Technology can be a powerful tool for education.

But it can also be used to invade students' privacy.

The State of Student Privacy in Massachusetts  
by Hallie Jay Pope & the ACLU of Massachusetts

Privacy isn't about *secrecy*. It's about *control*.  
You get to decide who has access to your information.

JESSIE ROSSMAN, ACLUM STAFF ATTORNEY

You might share something with your friends...  
...but that doesn't mean you want to share it with the government or with private companies.

ACLUM asked thirty-five school districts for information about how they use technology to monitor students and collect and share data.

What we learned was troubling.

KADE CROCKFORD, ACLUM TECHNOLOGY FOR LIBERTY PROJECT DIRECTOR

Some schools use off-campus Internet monitoring software

Some reserve the right to search school-controlled laptops without notice or consent

And many use surveillance cameras without a publicly available policy.

We want students to have access to the latest technology, but not at the expense of their privacy.

How do we do that?  
With transparency and the proper policies in place.

**Students**  
Be aware that anything you do on your school-controlled devices might be monitored.

Find out if, when, and how your school policy allows administrators to look through your devices or monitor your Internet use.

Cover your webcams with a sticker or Post-It note when you're not using them.

**PARENTS:**  
Ask your child's school administration about their privacy policies.

What information do you collect?  
With whom do you share it?  
For what purposes?

Schools exist to help students become informed, critical participants in our democratic society.  
Protecting student privacy is a key part of this mission.

To learn more, read our full report at [aclum.org/student\\_privacy](http://aclum.org/student_privacy).

Hallie Jay Pope | Legal Fellow & Cartoonist | ACLU of Massachusetts | © 2015



Daughter and son of ACLU of Massachusetts client Clayton Gordon  
Photo courtesy of family

#### IMMIGRANTS' RIGHTS

## Federal court affirms limits on "mandatory" immigration detention, allowing immigrants with pending cases to remain with families

As if in keeping with the holiday spirit, a federal court on December 23, 2015 affirmed a legal ruling in an ACLU case that has allowed more than 100 Massachusetts immigration detainees to obtain their freedom. The judgment lets many immigrants with pending immigration cases remain with their families.

"As we sit back and reflect at Christmas time, we are so blessed to be able to spend this special time together as a family with our new daughter, which couldn't have been possible without the ACLU," said our client Clayton Gordon. "There are so many families divided at this time, and our hearts truly go out to them and the pain they are going through."

"The First Circuit's judgment reflects thoughtful legal analysis and comes at a welcome time," said ACLU of Massachusetts staff attorney Adriana Lafaille. "It is wonderful to know that the Gordons and more than a hundred other New England families who have been reunited after the district court's ruling in this case are spending the holidays together and can remain together as they continue to fight their immigration cases." ■

#### RACIAL JUSTICE

## ACLU and National Consumer Law Center file suit against U.S. Department of Education over failure to disclose debt collection practice data

Out of concern that student debt collection practices disproportionately harm students of color and may be violating those students' constitutional rights, in March the national ACLU, the ACLU of Massachusetts, and the National Consumer Law Center (NCLC) filed a lawsuit against the U.S. Department of Education seeking details about the agency's debt collection policies and their potential impact.

NCLC and the ACLU filed the Freedom of Information Act (FOIA) lawsuit in U.S. District Court in Boston, charging the agency failed to fully disclose critical information related to the Education Department's oversight of the private companies' collection of federal student loans. Last May, the groups submitted a FOIA request seeking data related to those debt collection practices and any policies for measuring the impact on borrowers of color.

Despite numerous studies showing racial disparities in student debt, the Office of Federal Student Aid says it has no protocols for examining collections by race. Further, in lieu of disclosing requested information concerning private collection, the agency provided heavily redacted materials. The redactions prevent any meaningful understanding of current agency policies, although NCLC analysis shows that previous versions of these policies actually provided private debt collectors with financial incentives to violate borrowers' rights.

"The Department of Education is acting like it has something to hide. The public has a right to know how a taxpayer-funded agency handles debt collection to ensure it is done in a fair and nondiscriminatory way," said Rachel Goodman, staff attorney with the ACLU's Racial Justice Program. "And if taxpayer dollars are being handed over to private debt collectors, we need to know about their practices, too. We expect transparency."

Student debt burdens more than 40 million Americans, but it hits communities of color especially hard. Black and Latino adults are nearly twice as likely as their white peers to have student debt. Because students of color disproportionately rely on student loans, they are likely to be disproportionately impacted by private debt collectors' tactics.

"Who gets assessed additional fees, has their wages garnished, or has their debts offset during the collections process are important questions that must be answered. We should not allow the Education Department's lack of monitoring to exacerbate existing racial disparities," said Rahsaan Hall, director of the Racial Justice Program of the ACLU of Massachusetts. ■

#### ENDING THE WAR ON DRUGS

## Massachusetts ends automatic suspension of drivers' licenses for drug offenses

A new Massachusetts law backed by the ACLU and many other advocates has taken a major and long-needed step toward addressing collateral consequences of the war on drugs.

In March, Governor Baker signed legislation that eliminated the automatic suspension of drivers' licenses for most people convicted of drug offenses. These individuals will have Registry of Motor Vehicle records of their suspensions for a drug conviction sealed and will no longer have to pay a fee to have their drivers' licenses reinstated. These provisions of the new law will help them more successfully reintegrate into society.

In 1989, federal lawmakers required states to suspend drivers' licenses for people convicted of drug offenses for up to five years, even for offenses unrelated to driving. States that did not comply risked losing federal highway funds unless they formally opted out. Until this year, Massachusetts was one of only 16 states—and the only New England state—that still maintained a policy of automatic license suspension for non-driving offenses. ■

#### RACIAL JUSTICE, STUDENTS' RIGHTS

## Responding to racial harassment and discrimination, ACLU asks U.S. Attorney's Office to investigate Boston Latin

The ACLU of Massachusetts, with other civil rights groups and community leaders, asked the United States Attorney's Office in February to investigate reports of racial harassment, a racially hostile learning environment, and racially disparate discipline at Boston Latin School—the oldest public school in the nation, and one of the city's largest—under the Civil Rights Act of 1964. Within days, U.S. Attorney Carmen Ortiz announced plans to pursue an investigation of BLS.

Troubling reports surfaced early this year within the school and via social media, describing racial epithets and racially charged statements directed at Black students, going back more than a year.

Additionally, when Black students delivered examples of racially insensitive social media posts by other students in 2014 and 2015, little action resulted, either from BLS or from Boston Public Schools (BPS). Presented with seven race-related incidents from a 14-month period, "BPS made no determination about the school's racial climate, nor any indication that it would do so," said the groups' letter.

Signers on the letter include the Boston Branch NAACP; the Urban League of Eastern Massachusetts; the ACLU Foundation of Massachusetts; Lawyers' Committee for Civil Rights and Economic Justice; Massachusetts Advocates for Children; Massachusetts Association of Minority Law Enforcement Officers; Kevin Peterson, the founder of the New Democracy Coalition; and Reverend Reginald Smalls, Pastor of the Bethel Pentecostal Church.

The USAO's investigation is expected to run through the rest of the current school year. Advocates would like to see the USAO make findings and recommendations before the beginning of next school year. The students and their families are hopeful that the findings honor the students who endured this school environment and bravely came forward to address these issues. ■

#### LGBTQ RIGHTS

## ACLU backs full equality for transgender people

In 2011, the ACLU helped pass legislation to protect transgender people from discrimination in housing, employment, credit, and public education. However, the legislature stripped key language from the final draft, leaving a major gap in our civil rights laws. As a result, Massachusetts still fails to provide explicit nondiscrimination protections for transgender people in all public places, including stores, restaurants, hotels, and public transportation.

Two-tier civil rights laws are unacceptable. Today, the ACLU is working to ensure passage of *An Act Relative to Transgender Non-Discrimination*, which would fix the law and ensure that all people in Massachusetts are equally protected from discrimination. ■



Supporters of a bill that would grant full equality to transgender people in Massachusetts demonstrated at the State House, including Rep. Paul Tucker, who took part following Ash Wednesday services. Photo by Aaron Wolfson

## BOARD ELECTION AND UPDATES

The Nominating Committee offers the following slate for election to a three-year term on the ACLU of Massachusetts Board of Directors.

### CANDIDATES' STATEMENTS

**Lael Elizabeth Hiam Chester** (nominated for a first term) is an attorney who has focused her career on juvenile, criminal and civil rights law and policy. After graduating from Barnard College and Harvard Law School, she was the Albert Martin Sacks Clinical Fellow at the Criminal Justice Institute at Harvard and then joined the Civil Rights Division of the Massachusetts Attorney General's Office. For 12 years, she served as Executive Director of Citizens for Juvenile Justice (CfJJ), a statewide non-profit dedicated to improving the juvenile justice system. Lael led the successful *Justice for Kids Campaign* and drafted the "Raise the Age" bill that was passed unanimously by the legislature and signed into law by the Governor in September 2013 (ending the antiquated practice of automatically prosecuting and sentencing all 17 year olds as adults, regardless of the severity of the offense). Expertise on other advocacy campaigns includes school-to-prison pipeline, parent-child privilege, racial disparities and over-use of secure confinement. Lael is now conducting national and international research on Young Adult Justice. She is collaborating with colleagues at the Harvard Kennedy School of Government and the State of Connecticut (where the Governor recently proposed legislation to raise the age of adult jurisdiction to 21).

**Shannon Erwin** (nominated for a second term) is a co-founder and executive director of the Muslim Justice League, a Muslim-led organization advocating against erosion of human and civil rights under national security pretexts, which collaborates frequently with ACLUM in advocacy against so-called "countering violent extremism" programs. Previously, Shannon worked with Massachusetts Law Reform Institute, and later Massachusetts Immigrant and Refugee Advocacy Coalition, where her advocacy contributed to advances in immigrants' rights and safeguards against unconstitutional impacts of federal immigration enforcement programs, as well as defeat of extensive nativist state legislative proposals. An attorney and printmaker by training, Shannon earned her BFA from the Pennsylvania Academy of the Fine Arts in conjunction with University of Pennsylvania and JD from Harvard Law School. In her first term of Board service (2013-2016), Shannon served on the Equity & Inclusion and Nominating Committees (most recently chairing the latter), and she has been deeply grateful for these opportunities to serve on the Board and support ACLUM's impact.

**Charmane Higgins** (nominated for a second term) is the Executive Director of STRIVE Boston, a program of Justice Resource Institute, Inc. that provides job readiness training and placement to chronically unemployed individuals throughout Greater Boston. Ms. Higgins serves on a number of civic organizations. She is the Chair of the Boston Latin School Alumni Association which honored her in 2012 with its Outstanding Recent Graduate Award. She has volunteered with ACLUM since 2011 and was elected to its Board of Directors in 2013. She currently volunteers as a tutor with School on Wheels and as a Promising Pen Pal with the James P. Timilty Middle School. Ms. Higgins holds a BA from Wellesley College and a MA from University of Texas, Austin. In 2003, she

earned a MBA from Simmons School of Management. Ms. Higgins is also a senior fellow at the Institute for Nonprofit Management and Leadership at Tuft University.

**J.B. Kittredge** (nominated for a second term) is being nominated to serve a second term on the ACLUM Board. He has been General Counsel of Grantham, Mayo, Van Otterloo since 2005 and was previously a partner at Ropes & Gray, specializing in regulatory, commercial and governance matters affecting the investment management industry. He is a graduate of Harvard Law School (1979), where he was a member of the Law Review. He came to the ACLU through the National Gay and Lesbian Project, having experienced the injustice that prevented his "better half" from marrying to gain permanent entry into the United States. His interest in civil liberties extends to other equal protection and due process matters (e.g., women's reproductive rights and the dangers of religious exemptions) as well as core First Amendment issues. He joins Dr. King (and the ACLU) in proclaiming that "Injustice anywhere is a threat to justice everywhere."

**Martin Murphy** (nominated for a first term)

I am a partner and trial lawyer at Foley Hoag LLP. My practice is divided between criminal and civil work, and I regularly defend indigent clients in federal criminal cases and in state murder cases. My interest in and work on civil liberties issues has largely focused on criminal justice reform and the death penalty. In 2009, I served as the Co-Chair of a Boston Bar Association Task Force that focused on preventing wrongful convictions and whose work led to the passage (with the strong support of the ACLUM) of a Massachusetts statute providing post-conviction access to forensic evidence. I also served as the Co-Chair of the BBA's working group on the federal death penalty, and was a leader in the BBA's efforts to oppose the death penalty in the Tsarnaev case. I have long admired ACLUM's work and would be honored to serve on the Board.

**Robert Proctor** (nominated for a first term) is a Clinical Instructor at Harvard Law School's Criminal Justice Institute where he teaches and supervises third year law students in criminal defense practice and the Trial Advocacy Workshop, an intensive course in trial analysis, skills, and techniques. Prior to joining Harvard Law School, Robert worked in private practice specializing in criminal defense, civil litigation, and corporate compliance. Robert was a member of Suffolk Lawyers for Justice and Middlesex Defense Attorneys bar advocate programs for ten years providing legal representation to hundreds of indigent defendants in District and Superior Courts in Massachusetts. Prior to law school, he was a public high school English teacher in California and in Dorchester, MA. He provides pro bono legal advice and representation to veterans of the United States military and conducts street law seminars advising youth about their constitutional rights, particularly when engaging with police officers. Robert is also the Scholar in Residence of Winthrop House at Harvard College. Robert is licensed to practice before the Supreme Judicial Court for Massachusetts and the U.S. District Court for the District of Massachusetts. He earned a B.A. from Morehouse College, an Ed.M from Harvard University, and a J.D. from Northeastern University.

**Michael Tumposky** (nominated for a first term) is a criminal defense and civil rights litigator who has tried numerous cases in both state and federal courts. Michael is a graduate of Northeastern University School of Law

### ACLU of Massachusetts Board Ballot

Two check boxes are provided for joint members. One can vote using the first box and the other using the second.

Please cut out and mail this ballot. Ballots must be received in the ACLU of Massachusetts office, 211 Congress Street, Boston, MA 02110 by May 31, 2016.

For more information on the ACLU of Massachusetts nominating and voting procedures for the Board of Directors, go to [aclum.org/about/board](http://aclum.org/about/board).

#### Vote for 8 or fewer

- Lael Chester  
  Shannon Erwin  
  Charmane Higgins  
  J.B. Kittredge  
  Martin Murphy  
  Robert Proctor  
  Michael Tumposky  
  Susan Yanow

and got his B.A from Rutgers College. Prior to co-founding Hedges & Tumposky, LLP, he worked as an associate for the law firm of Hrones, Garrity & Hedges for five years. Michael has lectured extensively in topics ranging from evidence to trial practice and theory. He is currently on the adjunct faculty at Northeastern University School of Law, where he teaches Evidence and Criminal Trial Practice. He is also a graduate of the National Criminal Defense College, located in Macon, Georgia, which is a two-week, intensive training program focused on advanced trial practice theories and techniques. In his spare time, Michael is the attorney-coach for the Northeastern University School of Law Mock Trial Team, which was a TYLA Regional Finalist in 2014, as well as the Boston Latin School Mock Trial Team. He formerly served on the board of VenturingOut, an organization that trained soon-to-be-released prisoners in entrepreneurship so they could successfully and productively re-enter society. He currently sits on the board of the Orchard School, which provides alternative early education. A graduate of Latin School, Michael was born and raised in Boston.

**Susan Yanow** (nominated for a first term; previously served 2009-2015)

I previously served on the ACLUM Board of Directors from 2009 to 2015, and participated in the Nominating, Leadership, and Diversity committees. Currently I continue to participate in the Leadership Committee and am working to develop an Alumni Committee for Directors and Trustees who have served on the ACLUM Boards and wish to stay engaged with the organization. I am a social worker and long-time reproductive rights activist, and currently work to expand access to abortion through consulting projects to domestic and international organizations. I am honored to rejoin the Board and contribute to the work of the ACLU. ■

#### Notice of Annual Meeting of Members

The Annual Meeting of the members of the ACLU of Massachusetts will be held on June 20, 2016 at 5:30 PM at the offices of WilmerHale, 60 State Street, Boston, MA. New Board members will be announced at this meeting. If you wish to attend, please contact Ms. Munro via [mmunro@aclum.org](mailto:mmunro@aclum.org).

### ACLU OF MASSACHUSETTS LEADERSHIP & STAFF

#### ACLU FOUNDATION OF MASSACHUSETTS TRUSTEES (2015-16)

Ron Ansin, CHAIR  
 Joshua Boger  
 Martin Fantozzi  
 Ellen Paradise Fisher  
 Holly Gunner  
 J.B. Kittredge  
 Maria Manning  
 Kim Marrkand  
 Nicki Nichols Gamble  
 Kevin Prussia  
 Norma Shapiro

#### ACLU FOUNDATION OF MASSACHUSETTS DIRECTORS (2015-16)

Kevin Prussia, PRESIDENT  
 Lynne Soutter, VP  
 Charmane Higgins, CLERK  
 Maria Manning, TREASURER

Aziza Ahmed  
 Gabe Camacho  
 Jack Cushman  
 Iphigenia Demetriades  
 Peter Epstein  
 Shannon Erwin  
 April Evans  
 Fran Fajana  
 Martin Fantozzi  
 Holly Gunner  
 Adam Kessel  
 J.B. Kittredge  
 Neil McGaraghan  
 Kim McLaurin  
 John Regier  
 Nancy Ryan  
 Michael Schneider  
 Leslie Shapiro  
 Marianne Smith  
 Robert M. Thomas, Jr.  
 Charu Verma  
 Daryl Wiesen  
 Harmony Wu

**Carol Rose**  
 EXECUTIVE DIRECTOR

**Matthew Segal**  
 LEGAL DIRECTOR

**Whitney Taylor**  
 POLITICAL DIRECTOR

**Matthew Allen**  
 FIELD DIRECTOR

**Bliss Austin Spooner**  
 MAJOR GIFTS OFFICER

**Susan Corcoran**  
 INTAKE ATTORNEY

**Kade Crockford**  
 DIRECTOR,  
 TECHNOLOGY FOR  
 LIBERTY PROJECT

**Vira Douangmany Cage**  
 SPRINGFIELD ORGANIZER

**Bobby Gist**  
 IT & OFFICE MANAGER

**Rahsaan Hall**  
 DIRECTOR, RACIAL  
 JUSTICE PROGRAM

**Steve Hurley**  
 DIRECTOR OF  
 STRATEGIC  
 DEVELOPMENT

**Mary Jacobson**  
 DEVELOPMENT  
 OPERATIONS MANAGER

**Adriana Lafaille**  
 STAFF ATTORNEY

**Shirley Lai**  
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 FINANCE DIRECTOR

**Ann Lambert**  
 LEGISLATIVE DIRECTOR

**Nancy MacDonald**  
 LEGAL ASSISTANT

**Cho Kyung-Eun McEttrick**  
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**Mahtowin Munro**  
 EXECUTIVE ASSISTANT

**William Newman**  
 WESTERN MASS.  
 LEGAL DIRECTOR

**Christopher Ott**  
 COMMUNICATIONS  
 DIRECTOR

**Hallie Pope**  
 LEGAL FELLOW

**Christopher Robarge**  
 CENTRAL MASS.  
 FIELD COORDINATOR

**Raquel Ronzone**  
 COMMUNICATIONS  
 CONTENT SPECIALIST

**Jessie Rossman**  
 STAFF ATTORNEY

**Laura Rótolo**  
 STAFF COUNSEL &  
 COMMUNITY  
 ADVOCATE

**Saty Singh**  
 EVENTS &  
 ENGAGEMENT  
 MANAGER

**Paola Villarreal**  
 MOZILLA FELLOW

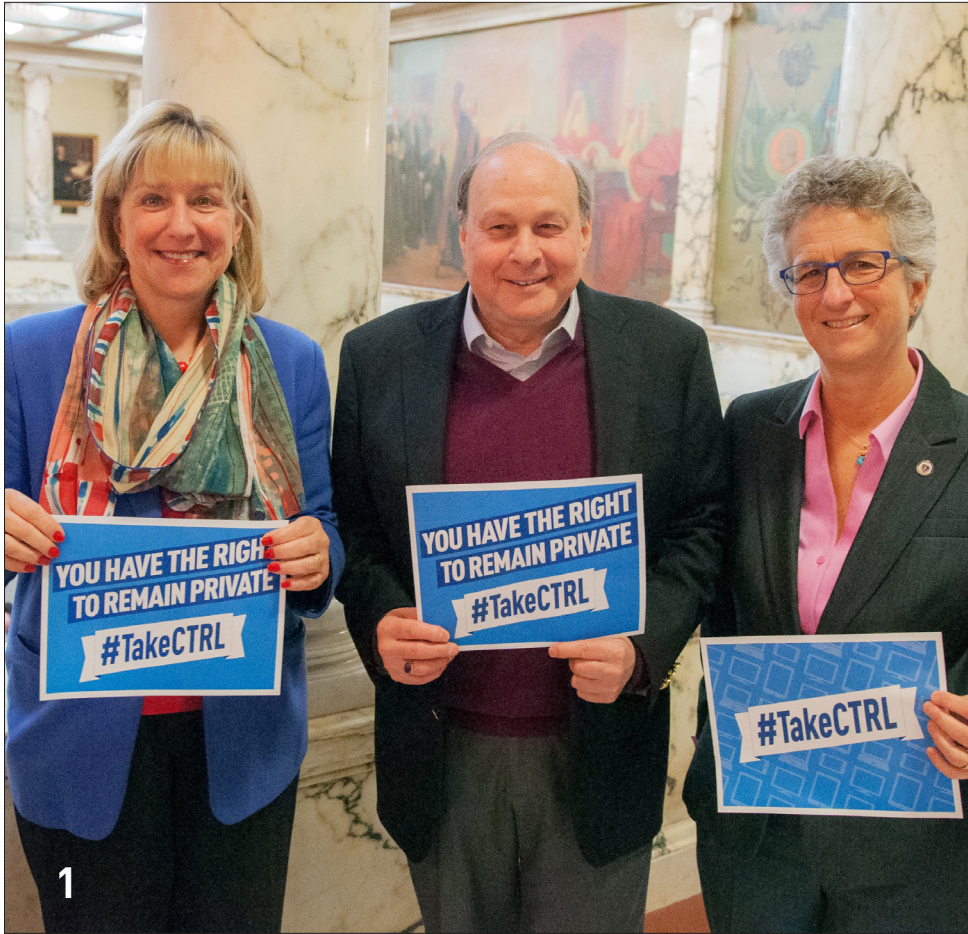
**Carl Williams**  
 STAFF ATTORNEY

**Gavi Wolfe**  
 LEGISLATIVE COUNSEL

**Aaron Wolfson**  
 MEDIA RELATIONS  
 SPECIALIST

**Sarah Wunsch**  
 DEPUTY LEGAL DIRECTOR

## Faces of the ACLU



1/ Rep. Karen Spilka, Senate President Stanley Rosenberg, and Rep. Sarah Peake (left to right) stand up for digital privacy rights during a January event on Beacon Hill.

2/ *Massachusetts Lawyers Weekly* named our legal director **Matthew Segal** a 2015 Massachusetts Lawyer of the Year, writing, "Whether as lead counsel or lending support with amicus briefs, Segal and his colleagues have had a hand in protecting the rights of seemingly everyone in the state, from Facebook users, to panhandlers on the streets of Lowell and Worcester, to defendants impacted by a crime lab disaster of historic proportions." Photo by Marilyn Humphries

3/ Office staff and volunteers celebrated the February birthday of legal intake volunteer and Yale Law graduate ('52) **Ann Thacher Anderson**. Since 2003, Thacher Anderson has answered over 6,300 requests for legal help.

4/ Our Racial Justice Program director **Rahsaan Hall** moderates a legislative briefing on police certification in Massachusetts with Rep. **David Vieira** and Prof. **Roger L. Goldman**, Callis Family Professor of Law Emeritus at Saint Louis University School of Law. Learn more: [aclum.org/post](http://aclum.org/post)

5/ **Paola Villarreal**, ACLU of Massachusetts Mozilla Fellow, presents an interactive map showing policing data across Boston as a way to visualize the city's war on drugs.

6/ Our staff attorney **Carl Williams** (right) speaks to students at Putnam Vocational Technical Academy in Springfield as part of an ACLU of Massachusetts forum on the school-to-prison pipeline.

7/ ACLU of Massachusetts Technology for Liberty Program director **Kade Crockford** addresses a crowd outside an Apple store in Boston in support of the company's defense of encryption. Photo by Jamie O'Keefe

