

2023



ACLU

AMERICAN CIVIL LIBERTIES UNION
OF MASSACHUSETTS

ANNUAL REPORT



American Civil Liberties Union of Massachusetts

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Front cover: Clockwise from logo: Baldwin Award winner Norma Shapiro with humorist Kate Clinton at the 2008 Bill of Rights Dinner; Shailin Thomas at the ACLU Membership Conference in Washington, D.C.; Christopher Norfleet with the ACLU at Boston Pride 2008; radio and television host Rachel Maddow at the 2008 Statewide Conference

Inside cover: Attendees at the 2008 Statewide Conference

Back cover: Boston Pride 2008

Photo credits: Except where noted, photos are by ACLU of Massachusetts staff, interns, volunteers, or contractors



Letter from the Executive Director

The arc of the moral universe is long, but it bends toward justice.
—Martin Luther King Jr.

As we come to the end of 2008, the nation stands poised at a critical crossroads. The election of Barack Obama, the country's first African-American president, marks an historic moment in American history. In just a few weeks, President Obama and members of the new Congress will take an oath to "preserve, protect, and defend the Constitution of the United States." It's our intention to make sure that oath stays at the forefront of the country's political agenda and our national conversation.

Our national post-election mission is threefold. First, we must hold accountable high-level officials who have engaged in illegal detentions, torture, illegal renditions and unconstitutional spying over the last eight years. Second, we must restore our system of checks and balances, including shutting the detention facilities at Guantanamo Bay and restoring habeas corpus, due process and equal rights under the law. Finally, we must embrace change by ensuring that civil rights and liberties are protected as our nation adopts new technologies in the areas of medicine, science and communications.

Accountability, Restoration and Change—this is the arc of history that the ACLU has always stood for, liberty and justice for all.

In looking through this annual report, you will see just a small snapshot of the vital work the ACLU of Massachusetts has conducted over the past year, work that ensures Massachusetts remains a wonderful place to call home. Our mission has been clear for nearly 90 years, to defend our constitutional rights, to protect individual liberty, and to ensure equal justice for all citizens. It is because of the generous support and enduring commitment from you and other supporters listed in this report that we are able to do the important work we do.

On behalf of all the ACLU of Massachusetts Board, its Trustees, its staff, volunteers, and membership, we send you our heartfelt thanks.

Sincerely,

Carol Rose
Executive Director

National Security: Trickle Down Abuses



ACLU members held a rally in Boston on January 11, 2008, the sixth anniversary of the arrival of the first prisoners at Guantánamo, to protest the serious abuses of civil liberties in the name of national security by the Bush administration.

One of the regrettable reactions to the tragedy of 9/11 was the government’s misguided attempts to strengthen national security at the expense of civil liberties. What followed was seven years of dubious policies and fear-induced legislation that treated civil liberties and the Bill of Rights not as inalienable rights but as quaint concepts of a bygone era. Policies like the *USA PATRIOT Act*, the *Military Commissions Act*, the *Secure Fence Act*, the *Protect America Act*, to name but a few, took dangerous steps toward an American police state, sounding alarms and much criticism from civil libertarians around the country.

Sadly, the abuses stemming from the National Security State are now “trickling down” to Massachusetts with alarming regularity, comprising more and more of our work during the past year.

This year, we successfully defended three MIT stu-

dents against a suit filed by the MBTA which sought to gag these students, claiming their class project, an analysis of the new “Charlie Card” subway ticket, was a threat to national security.

We continue our investigation of the government’s new “Fusion Center” that sits with no oversight in Maynard, Mass., compiling a stunning array of data on you and every resident of the Commonwealth. There is now virtually nothing a Fusion Center employee could not deduce about a person’s living arrangement, financial status, personal relations—all in the name of National Security, but in gross violation of your constitutional rights.

We continue to fight back against random, warrantless searches on our highways and subways, as well as a rising incidence of racial and ethnic profiling. And earlier this year, we organized neighborhoods and



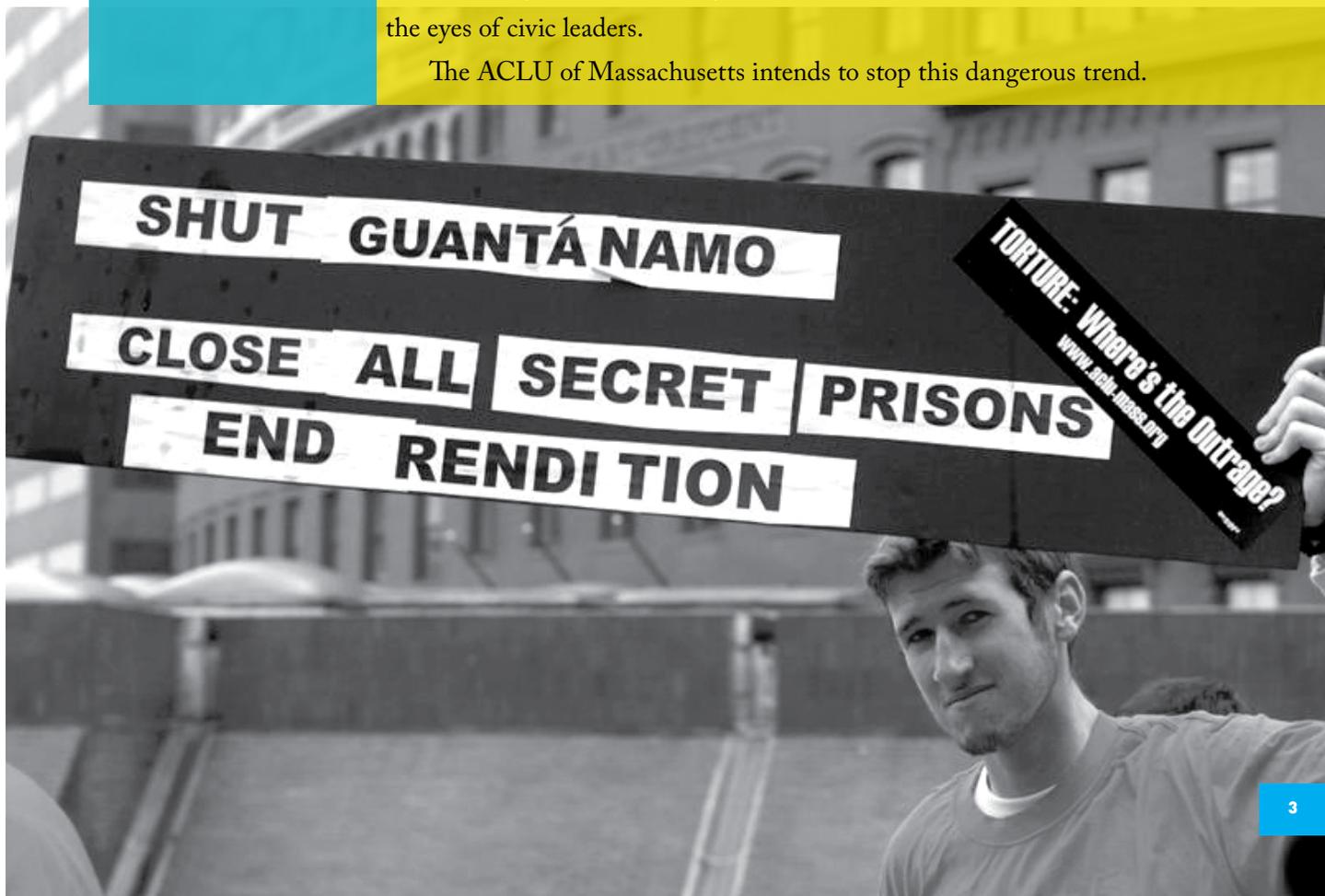
community groups to bring an end to the city’s “Safe Homes” program, an ill-advised police initiative to conduct warrantless searches of homes in minority neighborhoods.

Likewise, we took a hard stand against administrative subpoenas, which gives Massachusetts prosecutors access to the names and subject lines of any and all e-mails from “people of interest” in any investigation. This dangerously low standard does not require probable cause or a warrant, meaning we will continue to fight this bad law until it is repealed or amended.

We have begun coalition building with community groups and community organizers to bring a halt to the installation of security cameras now planned throughout the streets of Cambridge, Brookline, and Somerville, as well as stopping security cameras being placed in our schools, most recently in Newton and Lexington.

We also represented two citizens arrested by a Harvard University “undercover” police officer during a peaceful vigil on a sidewalk in Cambridge. The charges were dismissed when Harvard, which says it has no “undercover” police, decided that dropping charges was more agreeable than answering questions about the use and purpose of such photographs. That one of the nation’s leading universities now feels compelled to conduct undercover surveillance work—with no oversight or accountability—demonstrates just how far civil liberties have fallen in the eyes of civic leaders.

The ACLU of Massachusetts intends to stop this dangerous trend.





A Vulnerable Population

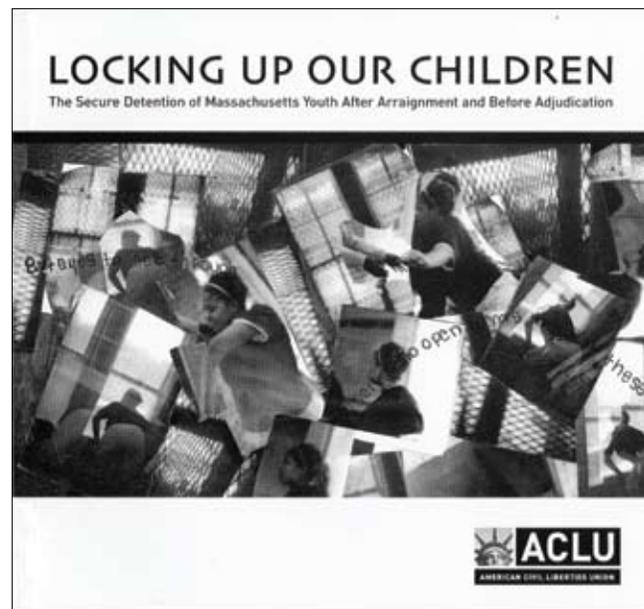
The legal statute in Massachusetts requires our state officials to treat juveniles in our justice system “not as criminals, but as children in need of aid, encouragement, and guidance”—which is why our special report, *Locking Up Our Children*, captured so much attention across the state.

The result of a two-year investigation, *Locking Up Our Children* was a hard-hitting, no-nonsense look at growing problems within our juvenile justice system, arriving at the disturbing conclusion that we are locking up far too many kids, for minor infractions, thereby failing one of the most vulnerable populations in the Commonwealth—our children.

Locking Up Our Children also revealed that Massachusetts continues to suffer an embarrassing disparity when it comes to children of color, who make up 20 percent of the population but nearly 60 percent of incarcerated children.

Our report identified numerous problems where Massachusetts can and must do better, such as serious problems with bail for kids, a shortage of adequate facilities to house juvenile offenders, a blatant disre-

gard for statistical record-keeping as required by Federal law, a severe shortage of lawyers willing to work



within the juvenile system, and a disregard for the social services programs that can alleviate some of the problems and congestion plaguing the current system.

Better still, our report made several solid recommendations where progress can be made. We plan to continue to educate the public and work with state agencies and individual officials to help make these recommendations a reality.



At the State House

Our legislative team continues to make important contributions to liberty and justice through their impressive lobbying work at the State House.

This year, we helped repeal the 1913 law that prevented out-of-state same-sex couples from marrying in Massachusetts, while helping pass another law that guarantees equal benefits and protections for married same-sex couples.

We also rolled up our sleeves to pass a bill that ensures women can purchase annuity policies at the same price as men and receive the same benefits—part of recommendations made 30 years ago to bring Massachusetts law into conformity with our state constitution’s Equal Rights Amendment.

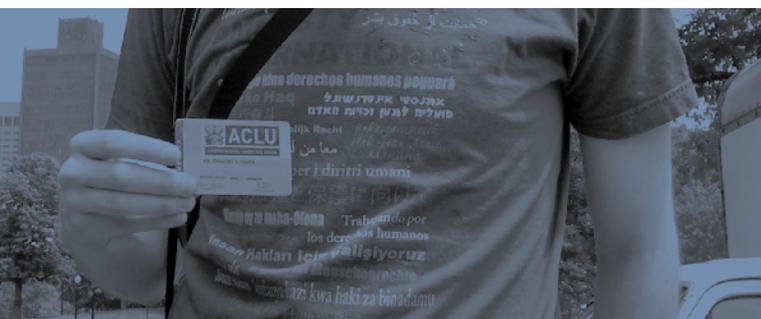
The ACLU of Massachusetts also worked on a bill, signed into law, to study the rising “drop out” rate afflicting the Commonwealth’s high schools, with expectations that this research could provide insights into what school policies and practices have led to these troubling increases, particularly for low-income, minority, and English language learners who are especially vulnerable cohorts.



Governor Deval Patrick recognizes a familiar face during a reception, ACLU of Massachusetts Legislative Director Norma Shapiro. Photo by Marilyn Humphries.



Education & Outreach



The vital work of the [ACLU of Massachusetts](#) goes far beyond the courtroom and the State House. You'll also find us working in the classroom, at public rallies, in coalitions, and hosting our own public events—many of which feature the leading thinkers, writers, journalists, and jurists in the country today.

Take, for example, our annual membership conference, which we launched this past year. Nearly 500 people turned out at Bentley College for a day of civil liberties workshops, and to hear Daniel Ellsberg's stirring keynote address and rising media star Rachel Maddow's closing remarks. In between, we offered 10 workshops spread across two sessions, so ACLU members could explore in depth the civil liberties issues of their choice.

This past year our Amicus Club speaker series, which connects the Massachusetts legal community to leading experts on constitutional, legal, and political issues, featured *New York Times* and Pulitzer Prize-winning author Anthony Lewis, ACLU National Legal Director Steve Shapiro, and the lead attorney on the Guantánamo detainee litigation, Sabin Willett.

Our annual collaboration with PEN/New England, entitled "Evening Without," featured renowned authors reading works by writers who have been banned from the U.S. because of their political views. This past year "Evening Without" took place in Wellfleet, Mass., and featured readers such as Howard Zinn, Alice Hoffman, Sean Gonzalves and many more who brought over 500 civil libertarians to their feet during an emotional evening celebrating literature, free speech, and the free exchange of ideas.

In addition to public events, the ACLU of Massachusetts continues its important work in the classroom through our Bill of Rights Education Project. Using our publications, our RightsMatter web-based curriculum, school visits, and our summer institutes, we provide innovative strategies to re-introduce civics in the classroom, making the Bill of Rights relevant to young people.

Jonathan Albano (Bingham McCutchen LLP)
 Michael Albert (Wolf, Greenfield & Sacks, P.C.)
 Sandra Badin (Proskauer Rose LLP)
 Matthew Baltay (Foley Hoag LLP)
 Mark Batten (Proskauer Rose LLP)
 Jennifer Behr (Foley Hoag LLP)
 Ken Berman (Nutter McClennen & Fish)
 Karen Blum (Suffolk University Law School)
 Bernard Bonn (Dechert LLP)
 Shara Boonshaft (Heller Ehrman LLP)
 Michael P. Boudett (Foley Hoag LLP)
 Tom Brown (Fish & Richardson, P.C.)
 Margaret Burnham
 (Northeastern University Law School)

Harvey Kaplan (Kaplan O'Sullivan & Friedman)
 Benjamin Keehn
 Adam Kessel (Fish & Richardson, P.C.)
 David Klein (Heller Ehrman LLP)
 Joseph Kociubes (Bingham McCutchen LLP)
 Lawrence Kolodney (Fish & Richardson, P.C.)
 Eben Krim (Proskauer Rose LLP)
 Peter Krupp (Lurie & Krupp)
 Eric Lucentino
 Gina Lombardo (Proskauer Rose LLP)
 Tracey Maclin (Boston University School of Law)
 Jonathan Margolis (Rodgers Powers & Schwartz)
 David Mervis (Proskauer Rose LLP)
 James L. Messenger (Weil, Gotshal & Manges, LLP)

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 Jennifer Charles (Proskauer Rose LLP)
 Arthur D'Andrea (Weil, Gotshal & Manges, LLP)
 Christopher DeMayo (LeBoeuf, Lamb,
 Greene & MacRae)
 Deborah Hesford DosSantos (Goulston & Storrs, P.C.)
 Howard Friedman (Law Offices of Howard Friedman)
 Megan Galaburda (Skadden Arps Slate Meagher Flom
 LLP & Associates)
 Malick W. Ghachem (Weil, Gotshal & Manges, LLP)
 Scott Harshbarger (Proskauer Rose LLP)
 Carol Head (Bingham McCutchen LLP)
 Kurt Hemr (Skadden Arps Slate Meagher Flom
 LLP & Associates)
 Eric Hermanson (Choate, Hall & Stewart)
 Paul Holtzman (Krokidas & Bluestein)
 Bruce Hopper (Hopper & Associates)
 Anne Josephson (Kotin Crabtree & Strong)
 Andrew Kanter (Sugarman, Rogers, Barshak and Cohen)

Jay Mitchell (Proskauer Rose LLP)
 Kimberly Mottley (Proskauer Rose LLP)
 Jean Musiker (Sugarman, Rogers, Barshak and Cohen)
 Patrick Myers (Proskauer Rose LLP)
 Jeremy Oczek (Proskauer Rose LLP)
 Charles Ogletree (Harvard Law School)
 Okey Onyejekwe (Weil, Gotshal & Manges, LLP)
 Hector Piñeiro, Law Offices of Hector Piñeiro
 Wasif Qureshi (Weil, Gotshal & Manges, LLP)
 Michael Shin (Dechert LLP)
 Harvey Silverglate
 Leonard Singer
 Sara Solfanelli (Choate, Hall & Stewart)
 Jennifer Stam (Foley Hoag LLP)
 Jeffrey S. Strom (LeBoeuf, Lamb, Greene & MacRae)
 Shaghayegh Tousei (Nutter McClennen & Fish LLP)
 Amrish Wadhwa (Foley Hoag LLP)
 James Weliky (Messing, Rudavsky & Weliky)
 Ellen Zucker (Burns & Levinson LLP)



In the Courtroom

Our legal docket continues to defend the boundaries of freedom and civil liberties here in the Commonwealth, each year handling a wide array of critical cases, ranging from free speech to civil rights violations to immigration issues to equal justice issues to privacy rights to national security matters. While space restrictions prevent us from listing our entire docket (find it online at www.aclum.org/2008), below is a small representation of our legal work during the past year.

In *Rahman v. Chertoff*, the ACLU challenged the FBI's Terror Screening Center's list, which contains, according to the government, every person with "any nexus" to terrorism. As a result, many innocent U.S. citizens, largely Muslims and those of Middle Eastern descent, are detained for unreasonable periods of time when attempting to re-enter the country, and often subjected to abusive treatment. We joined with the ACLU of Illinois in a class action lawsuit which challenged abusive border inspections based on the government's defective watch-list. ([Ethnic Profiling](#))

In *Brissot v. Transportation Security Administration*, we defended Josue Brissot, an experienced baggage screener at Logan Airport, whose employment was threatened by the Transportation Security Administration because he wore his hair in dreadlocks as part of his Rastafarian religion. ([Religious Freedom](#))

We continue legal work on behalf of Dr. Adam Habib, who was denied a visa when invited to speak at the World Bank and the National Institutes of Health in 2006. Dr. Habib's case, *American Sociological Association et al. v. Chertoff*, sits at the heart of free speech issues, affecting the right of Americans to hear ideas

and insights from writers, scholars, and political leaders legally invited to our shores. ([Free Speech](#))

In *Abdelaziz Laroussi v. Fairmont Copley Hotel* (EEOC) we defended employees of the Fairmont Copley Hotel who had been subjected to repeated discrimination by management, including being called "Taliban" and "Saddam Hussein's brothers." The employees are of Moroccan descent. ([Equal Protection](#))

Joining the Center for Constitutional Rights, the ACLU of Vermont, and the ACLU of Florida, we filed an amicus brief in Federal District Court in support of *Vilaseca v. Paulson*, in support of individuals who have been denied the right to visit close family members in Cuba. ([Right to Travel](#))

We defended two different cases where a citizen videotaping police interactions on public property (*Commonwealth v. O'Connor* and *Commonwealth v. Peyton*) led to their own arrest for violating the state's wiretap law which prohibits "secret" voice recording. ([Police Practices](#))

In a highly charged case that generated much controversy, *Curley v. NAMBLA* sought monetary

damages from members of the North American Man Boy Love Association (NAMBLA), a controversial group organized to bring about change in public opinion and the laws governing the age of consent for sexual relations. The suit erroneously claimed that NAMBLA was, in part, responsible for the kidnapping, rape, and murder of a boy because their publications were found in the home of the murderer. The ACLU defended NAMBLA in this guilt-by-association case, which was dismissed with prejudice. [\(Guilt by Association\)](#)

Back in the 1990s, the ACLU of Massachusetts succeeded in having the State's anti-begging law struck down as unconstitutional, only to see the City of Boston recently adopt an ordinance prohibiting "aggressive solicitation." In *Commonwealth v. Zanis* we successfully defended a man peacefully begging who had been issued a citation for holding a sign. Charges were dismissed. [\(Free Speech\)](#)

In *Parker v. Hurley* we filed an amicus brief in effect protecting the right of the Lexington School District to use textbooks that depict images of nontraditional families. Filed on behalf of several Lexington parent and religious groups, the Massachusetts and Lexington Teachers

Associations, GLAD, and the Human Rights Campaign, our brief argued that mere presentation of ideas in public school that parents disagree with does not violate parental constitutional rights. [\(LGBT—Equal Rights\)](#)

In *Commonwealth v. A Juvenile* (B.L.), we seek to dismiss statutory rape charges against the only boy involved in voluntary sexual conduct by a small group of teenagers. [\(Equal Protection\)](#)

And in *Chen v. Collins*, we challenged the unlawful and discriminatory denial of driver's licenses, renewals, learner's permits, and Massachusetts identification cards to immigrants who reside in Massachusetts, who possess appropriate documents to show age, identity, and residence, and who are lawfully present in the U.S. The Registry routinely denies the applications of persons whom it believes lack lawful immigration status, even though the Registry lacks authority to enforce federal immigration law and completely misunderstands it in any event. [\(Discrimination\)](#)





Volunteers

The ACLU of Massachusetts is a dynamic, influential organization in the Commonwealth in large part because of the tireless work of our volunteers and supporters.

We owe a heartfelt debt of gratitude to our remarkable Board members, our dedicated Trustees, our talented cooperating attorneys, sponsoring law firms and area businesses, and the many dedicated volunteers who make our work possible. In addition to providing their time and talents, many also give countless hours to help us fund the vital litigation, advocacy, and public education programs we undertake. Generous in so many ways, these individuals are the driving force behind the ACLU's many accomplishments. We are enormously grateful for their contributions to our work.

Bill of Rights Dinner

The 27th annual **Bill of Rights Dinner** was a rousing success in every respect, but most notably for its engaging program and captivating speakers, featuring author and former White House Counsel John Dean, comedian Kate Clinton, 2008 Baldwin Award-winner Norma Shapiro, and 2008 Beacon of Liberty Award-winner Robert Glassman, Co-Chairman of Wainwright Bank & Trust Company.

Academy Award-winning filmmaker Errol Morris aired a clip from his new movie, *Standard Operating Procedure*, and filmmaker (and ACLU of Massachusetts board member) Arnie Reisman captured every heart in the room with his warm documentary tribute to Norma Shapiro, the legendary legislative director of the ACLU of Massachusetts.

The audience in attendance at 27th Annual Bill of Rights dinner was hushed by the announcement of a \$100,000 challenge grant, the largest in the dinner's distinguished history, given by ACLU members Dr. Carol Master and Sherry Mayrent. The Challenge Grant obviously resonated with the audience, as a number of ACLU of Massachusetts fund-raising records were broken, including total gifts, total dollars, and number of new donors. Dr. Master spoke at the dinner, and delivered a moving speech about eroding civil liberties and what it will mean to future generations should we not defend basic freedoms.

The highlight of the evening was the presentation of the 2008 Baldwin Award, which brought a long, rousing standing ovation to recipient Norma Shapiro.



From Top:

ACLU members enjoy their evening at the 27th annual Bill of Rights Dinner.

Dr. Carol Master and Sherry Mayrent announce their record-setting challenge grant at the 2008 Bill of Rights Dinner.

2008 Baldwin Award winner Norma Shapiro (center) stands with ACLU of Massachusetts Executive Director Carol Rose, President Nancy Ryan, Trustee Chair Ron Ansin, and State Rep. Byron Rushing.

Giving to the ACLU of Massachusetts



Photo by Marilyn Humphries

Massachusetts has a long and proud history of firsts, and being at the forefront of civil liberties is certainly among them. Massachusetts holds this distinction due in no small part to the passionate commitment of our generous financial supporters and ardent membership. It is no secret that your Massachusetts affiliate is often the ACLU affiliate of choice to move the boundaries of liberty and justice forward. Indeed, history has shown that Massachusetts victories resonate across the country in important ways, our historic work to defend marriage equality being just one recent example.

It is your financial support, in defense of these rights, these precious liberties, that does so much to make Massachusetts a wonderful place to call home.

As you know, your support is made more crucial because the ACLU accepts no government funding, and we never charge our clients for legal representation. Our financial resources are provided primarily by dedicated private donors, like you, listed in these pages.

Your exceptional support this past year played a vital role in underwriting our mission to repair some of the damage done over the past eight years, and just as important, your support inspires others to join us as we advance the frontiers of freedom forward. For all you do on behalf of civil liberties, we sincerely **thank you.**

ACLU and the ACLU Foundation

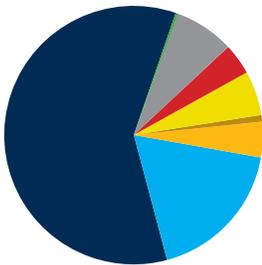
The ACLU and the ACLU Foundation of Massachusetts are separately incorporated non-profit organizations. The ACLU Foundation supports our litigation and public education programs and is a 501(c)3 organization, with contributions tax-deductible to the fullest extent of the law. The ACLU (the "Union") does membership outreach and organizing, legislative advocacy and lobbying, and is supported through membership dues. The Union is tax-exempt as a 501(c)4 organization; however, donations to it are not tax-deductible. Most of the funding for the ACLU and the ACLU Foundation comes from individuals like you who have chosen to make a generous philanthropic investment in building a future where liberty is the highest American ideal.

To maximize the ACLU's ability to defend and promote civil liberties and the civil rights of all people nationwide, all gifts and membership dues are shared equally between the National ACLU Foundation and the ACLU Foundation of Massachusetts. Through this unique sharing arrangement, a portion of the National ACLU's share is allocated to help smaller affiliates throughout the country that otherwise would not have the financial resources to address the serious abuses of power and indifference to civil liberties issues within their respective states.

ACLU Foundation of Massachusetts
Income and Expenses
FY08 (April 1, 2007 – March 31, 2008)
Preliminary Audited Financials

Revenues

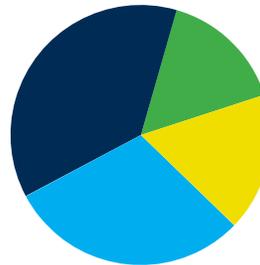
- Contributions \$1,050,627
- Other \$5,626
- Unrealized Investments -\$132,348
- Investments \$68,399
- Legal Awards \$98,689
- Bequests \$15,852
- Interest & Dividends \$74,044
- Grants \$318,500



Total \$1,499,389

Expenses

- Legal \$612,368
- Education \$254,422
- General & Administration \$283,756
- Fundraising \$490,527

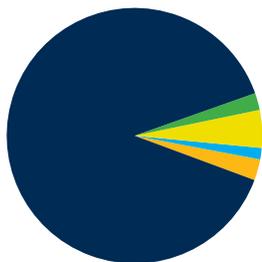


Total \$1,641,073

ACLU of Massachusetts
Income and Expenses
FY08 (April 1, 2007 – March 31, 2008)
Preliminary Audited Financials

Revenues

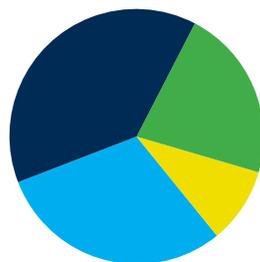
- Membership Income \$497,491
- Bequest Revenue \$12,072
- Interest & Dividends \$26,763
- Contributed Goods & Services \$8,057
- Contributions \$14,969



Total \$559,352

Expenses

- Legislation \$170,880
- Education \$97,171
- Worcester \$42,843
- General & Administration \$133,291



Total \$444,185

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Susan Corcoran, Intake Attorney
William Newman, Director, Western Massachusetts Legal Office
Amy Reichbach, Racial Justice Advocate
Laura Rótolo, Human Rights Fellow
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Ann Lambert, Legislative Counsel
Gavi Wolfe, Legislative Specialist

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Nancy Murray, Education Director

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Marketing & Communications
Bliss Austin Spooner, Campaign Director
Chris Ott, Communications Manager
Megan Warde, Annual Fund Manager
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Frank Nagel
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Katie Rahlin
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Zachary Schaffer
Amanda Shoffel
Nan Stein
Carol Streiff
David Tarbet

