

ACLU Joins “Justice for Jason” Defense

African-American student at UMass Amherst faces more serious charges than his white assailants



A racially motivated attack on UMass Amherst student Jason Vassell last year sparked “Justice for Jason” rallies such as this one in February. Photo by Yevin Roh.

Intoxicated intruders at UMass Amherst smashed a dormitory window, shouted racial slurs at occupant Jason Vassell, and broke Vassell’s nose when they found him inside his building—yet Vassell, who is African-American, must now defend himself in court against far more serious charges than his white assailants. ACLU of Massachusetts lawyers John Reinstein and Bill Newman have joined with Vassell’s defense attorneys, David P. Hoose and Luke Ryan, in seeking dismissal of all charges against Vassell on the grounds that this is a discriminatory prosecution.

According to Vassell’s defense, two intoxicated men—John Bowes and Jonathan Bosse—peered into his first-floor dormitory window early in the morning of February 3, 2008, while Vassell visited with friends. When Vassell told them to leave, they shouted racial slurs and demanded a fight.

When Vassell refused, the men smashed his window and gained entrance to the dormitory lobby, where Vassell had gone to meet a friend he called for help. Vassell warned the intruders to leave, but the larger of the two men punched Vassell in the face, breaking his nose. During the ensuing fight, Vassell used a pocketknife to defend himself, stabbing both the men before escaping behind a

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ACLU Report Blasts Violations of Basic Rights

For hundreds of immigrants detained in Massachusetts, first-of-its-kind study details poor jail conditions, denial of medical care, and violations of due process against immigrants held for months without being accused of a crime.



Frank (right, with his U.S. citizen son) is being deported for a 23-year-old drug offense. In 1986, in exchange for government assurances that it would not affect his immigration status, Frank pled guilty and served no jail time. Later, however, Frank spent five years in ICE detention fighting his deportation. Photo by Marilyn Humphries

Hundreds of people not accused of committing crimes are being detained for long periods in Massachusetts jails—in conditions that violate fundamental rights—and they are subject to retaliation if they complain to authorities, according to a two-year investigation by the ACLU of Massachusetts.

The human rights investigation into conditions for immigrants detained in the Commonwealth by Immigration and Customs Enforcement (ICE) found that hundreds of people arrested for non-criminal immigration violations spend months and sometimes years in overcrowded county jails, where their human rights are often denied, while they wait to be deported, or fight a legal battle to stay in the country.

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Elizabeth Asefa, a senior at Cambridge Rindge and Latin School, has been chosen by the national ACLU as one of sixteen student “activist-scholars” from across the country to be awarded a 2009 Youth Activist Scholarship. See page 5 for more “Faces of the ACLU.”

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Beacon Hill Update

What do new House Speaker DeLeo—and the economic crisis—mean for civil liberties?

What does the change in leadership at the State House mean for civil liberties? And with political maneuvering and the economic crisis taking up most of the air on Beacon Hill, will civil liberties and civil rights get the attention they deserve?

The truth is, it's too soon to tell. But as the 2009-10 legislative session rumbles to a start, early indicators point to new opportunities for the ACLU legislative agenda.



First, new House Speaker Robert DeLeo has been out front early on one ACLU priority: the so-called “transgender civil rights” bill. With ACLU staff helping to ride herd, the bill has already garnered a majority

of legislators in each chamber as co-sponsors. In addition to signing on as a co-sponsor, DeLeo has publicly vowed to pass the bill this session, adding protections based on gender identity and expression to state nondiscrimination laws.

Second, with the economy in the tank and no bacon to bring home to their districts, legislators are clamoring for “revenue-neutral” proposals that they can pass to show that they are still making a difference on issues their constituents care about. Well, the ACLU of Massachusetts has a few suggestions for them.

How about the bill from Rep. Byron Rushing and Sen. Marc Pacheco that would shore up patient privacy



rights as we move into the brave new world of electronic medical record keeping?

Or the proposal by Rep. Ellen Story to protect young women's access to abortion care by giving them more trusted adults they can turn to for counseling and authorization to receive needed services?

Or a proposal from Sen. Cynthia Creem to fix overbroad access by law enforcement to our personal phone and internet records?

A number of legislators have also suggested that we remove archaic, unconstitutional laws—such as those prohibiting sodomy or contraception for unmarried couples—from the books to prevent future mischief. These and other proposals would protect rights and liberties and wouldn't cost a dime.

Third, a further silver lining to fiscal storm clouds is the fact that legislators are beginning to look with a more critical eye at costly, ill-advised state projects or policies that do great damage to civil liberties. Can we really afford to keep locking up first-time drug offenders, and is the moment finally ripe for serious sentencing reform? Should we really be throwing good state money after bad federal dollars to staff the Commonwealth Fusion Center—the privacy-obliterating data-mining operation run by state police that threatens to develop into outright domestic spying?

We hope that now is the moment when the legislative appetite for expensive, draconian policy will dissipate and the ACLU will be able to achieve much-needed reforms. To help, make sure you are on our email list by going to www.aclum.org/alerts.



Legal Briefs

ACLU action around the Commonwealth

■ First Circuit Court upholds ban on gathering electoral signatures

A regulation prohibiting the solicitation of signatures for candidates for electoral office led to the arrest of Rinaldo Del Gallo outside the Pittsfield Post Office while he gathered signatures to run for the Governor's Council. The same regulation, however, allows the solicitation of signatures for petitions for ballot questions and causes. Cooperating attorney David Klein and ACLU Western Massachusetts Legal Office director Bill Newman argued on behalf of Del Gallo that post office sidewalks are a traditional public forum where First Amendment rights are paramount. The Court ruled for the government based on its interest in preventing patronage and appearing neutral on electoral matters. The ACLU is filing a petition for re-hearing.

■ ACLU challenges Lowell juvenile curfew

The ACLU is helping to challenge the constitutionality of a juvenile curfew in Lowell that makes it a crime for youth under 17 to be out at night.

In a friend-of-the-court brief submitted to the Massachusetts Supreme Judicial Court (SJC), the ACLU of Massachusetts argues that the law violates kids' fundamental freedom of speech. Its vague wording puts police officers in the position of judging whether a juvenile is engaged in constitutionally-protected expressive activity—and therefore can't be arrested—or is just out past curfew.

The law is also likely to be ineffective. Studies show that juvenile crime peaks during the period shortly after school, not at night. In Lowell, kids out between 11 p.m. and 5 a.m. can be arrested and sent to Department of Youth Services custody.

The SJC hears oral arguments on April 6, 2009.

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Learn more about these cases
> www.aclum.org/docket

Cambridge Rejects Homeland Security Surveillance Cameras

ACLU led three-month effort to fight video monitoring

On February 2, 2009, the Cambridge City Council voted unanimously to oppose the installation of Department of Homeland Security-funded surveillance cameras on Cambridge streets. The vote, believed to be the first of its kind in the nation, followed a three-month organizing effort by the ACLU of Massachusetts to raise awareness about a powerful new system of Department of Homeland Security cameras linking nine communities in the Greater Boston area.

The ACLU has also spearheaded opposition to the cameras in Brookline, which is part of the same camera network. Although the Brookline Board of Selectmen recently voted 3-2 to approve a year-long trial period for the use of the cameras, the fight is not over. Brookline residents will now take the issue to Town Meeting in May, and plan an extensive public outreach effort before then.

Why this outcry over a relatively small number of cameras (95 in the nine-town network), when there are already cameras watching as we enter stores,

park our cars, and use ATM machines?

These cameras are part of a larger government system. Over the last six years, federal “anti-terror” funds from the Department of Homeland Security have created networks of digital surveillance cameras across the country. Even the fishing village of Dillingham, Alaska, got 80 of them in 2006—one for every 30 residents, according to the April 2, 2006 *Boston Globe*.

Because of the secrecy surrounding this “national security” camera initiative in the Boston area, it is unclear whose eyes will be watching residents as they go about their business, and what agencies will have access to the digital images. Will images be stored, and, if so, for how long? Will the cameras capture images of protected First Amendment activity? And, as is the case

with so much other public and private data, will their data be transmitted to the Commonwealth Fusion Center in Maynard, Massachusetts?

An initiative of then-Gov. Mitt Romney, the

Commonwealth Fusion Center is now one of some 66 fusions centers across the country. They serve as the hubs of a new intelligence apparatus, absorbing information about everyday activities, crime, and tips from the public about suspicious activity. Then



SHOW YOUR OPPOSITION TO HOMELAND SECURITY SURVEILLANCE!
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they use data mining techniques to try to identify individuals who need further scrutiny.

On the day of its camera vote, the Cambridge City Council passed another order unanimously, asking City agencies to report if they transmit information to the Commonwealth Fusion Center.

The ACLU is determined to roll back Massachusetts' participation in the national security surveillance state that has taken shape in the shadows since 9/11. Please email nancy@aclum.org if you want a “Don't Spy on Me” button or bumper sticker, or can help us find out if there are DHS surveillance cameras in your town. **D**

LETTER FROM THE EXECUTIVE DIRECTOR

2009: Reclaiming Our Civil Liberties

By Carol Rose

On February 7, *Salon.com* columnist Glenn Greenwald gave a keynote address at the ACLU of Massachusetts Statewide Conference. We titled the conference “Beyond the Politics of Fear: Reclaiming Our Civil Liberties.” I was surprised at how little post-Bush administration euphoria there was among the more than 500 attendees in the auditorium. People seemed fully in tune with Greenwald’s sobering analysis of how difficult it will be to restore the rule of law.

JUDGING FROM EARLY SIGNS, WE CANNOT SIT BACK AND ASSUME THAT JUST BECAUSE GEORGE BUSH AND DICK CHENEY ARE GONE, THE RULE OF LAW IS BACK.

Greenwald talked about four major hurdles:

1) media portrayals of people who believe in the Constitution as “civil liberties extremists”—out of the mainstream;

2) the notion that we are entering a centrist, “post-partisan” age, and that if President Obama pushes for a restoration of civil liberties he will be portrayed as capitulating to the “left”;

3) the existence of a permanent Washington political class which is not ready to accept new limitations on what they can do;

4) the belief among many that we should not think about prosecuting leaders for breaking the law, even though failure to do so will create both a sense of immunity and impunity on the part of political leaders, making us a nation of men, not of laws.

Over the weeks since the conference, the new administration has already given us a glimpse of the critical challenges that lie ahead. We were encouraged when, on his very first day in office, President Obama issued orders committing his administration to “an unprecedented level of openness in Government,”

requiring the closure of Guantánamo within a year, the immediate halt of military commission proceedings, and ordering all government agencies, including the CIA, to follow interrogation guidelines laid down in the Army Field Manual.

True, there is wiggle room in the language of the executive orders—for instance, the order regarding interrogation creates a special task force that will determine whether special guidelines are necessary for CIA interrogations, and to review the practice of “rendition” to see how it can be carried out in compliance with our legal obligations. There is no guarantee that the new administration will return to the rule of law and try terrorist suspects in U.S. civilian courts or tribunals provided by military law.

But we were truly alarmed by the new administration’s bombshell of February 9, when it told the Ninth Circuit Court of Appeals in an ACLU case involving five victims of “extraordinary rendition” and torture that—in an effort to have the entire case thrown out—it was invoking the “state secrets privilege”—a once-narrow rule limited to excluding secret evidence, exactly as the Bush administration had earlier done. The attorney from President Obama’s Justice Department said that the court should not “play with fire” by allowing a case to go forward when doing so might reveal things the government preferred to keep secret. So much for government openness!

Two days later there was another bombshell—the

Justice Department told the ACLU that it needed more time before deciding whether to disclose Bush administration legal memos that justified harsh interrogation methods—memos the ACLU had been seeking in court for five years. In a letter to the ACLU, the Justice Department said it had to weigh “the legitimate confidentiality interests of the executive branch and the national security interests of the United States”—a statement at odds with the lofty declaration of the President’s January 21 Memorandum: “We will work together to ensure the public trust and establish

a system of transparency, public participation, and

collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in Government. Government should be transparent. Transparency promotes accountability and provides information for citizens about what their Government is doing.”

Judging from these early signs, we cannot sit back and assume that just because George Bush and Dick Cheney are gone, the rule of law is back.

But if nothing is guaranteed, still, much is possible, as long as We the People are prepared to demand it. Frederick Douglass’ 1857 statement—“Power concedes nothing without a demand. It never did and it never will”—is as true now as it ever was. And that’s why the work of the ACLU is more important than ever. **D**



ACLU of Massachusetts Executive Director Carol Rose

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[CONTINUED FROM PAGE 1]

locked door while the intruders shouted obscenities and tried to get through it until police arrived.

In spite of overwhelming evidence that this was an unprovoked and racially motivated attack on a black student by two white non-students, the investigation focused almost immediately on Vassell, with one police officer assuming that it was a drug deal. Vassell was arrested and held on high bail, and now faces two counts of aggravated assault and battery with a deadly weapon. If convicted, Vassell could serve 30 years in prison. Bowes faces only misdemeanor charges with a maximum 18-month

sentence, while Bosse has not been charged. Both Bosse and Bowes appear in police reports alleging involvement in other violent incidents.

“This case raises serious questions about racial bias,” said Carol Rose, executive director of the ACLU of Massachusetts. “It’s bad enough that Jason Vassell had to endure racial slurs and a violent attack from intruders in his dormitory, and it’s very hard to understand why he now faces far more serious charges than the two white assailants he defended himself against.” **D**

ACLU Report Highlights Human Rights Abuses in ICE Detention

[CONTINUED FROM PAGE 1]

On December 10, 2008, marking the 60th anniversary of the Universal Declaration of Human Rights, the ACLU of Massachusetts released the report *Detention and Deportation in the Age of ICE: Immigrants and Human Rights in Massachusetts*, the first documentation effort of its kind in the state. It features the results of interviews and correspondence with 40 detained people, and analysis of hundreds of pages of documents obtained under the Freedom of Information Act.

The report documents the following trends of concern: Detained immigrants are transferred from one prison to another without justification or notice, disrupting their ability to contact lawyers and family members;

Transfers are used as retaliation against detainees who speak out about abuses;

Detainees reported coercion and physical abuse by ICE agents during the deportation process;

Immigrants with no history of violence and little flight risk are nevertheless detained for long periods

of time, and some are detained for longer than the law allows;

Overcrowding in county jails leads to lack of services and sub-standard conditions;

Detained immigrants face harsh treatment by guards;

Medical care is inadequate and dangerously lacking in some facilities;

ICE fails to supervise local facilities to ensure they meet national detention standards.

Immigration detention, as a form of civil detention, is not meant to be punitive or retaliatory. ICE nonetheless uses detention as an important tool in its law enforcement belt. In so doing, ICE makes it excessively difficult for immigrants, many of whom choose deportation even when legal avenues to remain in the country are available, to legally stay. Such an unchecked system of vast federal

powers opens the door to abuse and violations of basic human rights. In its zeal to

deport all deportable persons, ICE has trampled on fundamental rights guaranteed to all—citizen and non-citizen alike. **D**

www.aclum.org/ice



Two of the immigrants interviewed for the report, available at www.aclum.org/ice. Photos by Marilyn Humphries

ACLU Sues to Stop Religious Restrictions on Services to Trafficking Victims

The ACLU of Massachusetts sued the United States Department of Health and Human Services (HHS) in January to stop the government from allowing tax dollars to be used to impose religious restrictions on services provided through the Trafficking Victims Protection Act. In 2006, HHS designated the United States Conference of Catholic Bishops to

oversee funding of organizations serving victims of human trafficking, despite knowing that the USCCB required these groups to agree not to provide contraception or abortion services or referrals. Since 2006, HHS has awarded USCCB grants ranging from \$2.5 million to \$3.5 million annually to support organizations that provide direct services to trafficking victims.

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Photo Essay: Faces of the ACLU

Members and supporters at work during the winter and spring of 2009.



1

Elizabeth Asefa, a senior at Cambridge Rindge and Latin School, has been chosen by the national ACLU as one of sixteen student “activist-scholars” from across the country to be awarded a 2009 Youth Activist Scholarship. A member of the school’s Peace and Justice Corps and the Minority Student Achievement Network, Elizabeth was chosen for extraordinary leadership qualities displayed in helping middle school students of color find their voice, and working to disrupt the flow of high school students through the “school to prison pipeline.” In addition to receiving a scholarship towards her first year in college, Elizabeth will be participating with the other student awardees in training sessions at the ACLU’s legislative office in Washington, DC, and its national headquarters in New York.



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2, 4, 5, 6, 9 > We photographed supporters like these with their ACLU membership cards at our 2009 Statewide Conference. To see the rest—and to use your picture to show support for the ACLU—[go to www.aclum.org](http://www.aclum.org).

3 > Lively discussion followed presentations at our 2009 Statewide Conference.

7 > Up-and-coming civil libertarian Lucy Pyle is the daughter of ACLU cooperating attorney Jeff Pyle, and granddaughter of board member Christopher Pyle.

8 > Two-time National Poetry Slam Competition champions Sekou “tha misfit” (shown here) and Steve Connell gave an energetic performance at our 2009 Statewide Conference.

10 > Laura Rótolo, one of our staff attorneys, and Gavi Wolfe, legislative specialist, took part in “Election Protection” efforts in New Hampshire in November.

11 > National ACLU senior staff attorney Leslie Cooper spoke at the 2009 Statewide Conference about an important ACLU win for LGBT parenting rights: in November, a Florida circuit court ruled to strike down a ban on adoptions by lesbians and gay men.

12 > ACLU of Massachusetts executive director Carol Rose proudly displays the February 4, 2009 edition of the *Boston Globe*, which carried three stories about ACLU work: against Homeland Security surveillance in Cambridge, against a “shadow DNA database” at the state crime lab, and on behalf of Jason Vassell, an African-American UMass Amherst student facing much more serious charges than his two assailants (see Docket page 1).

Photos by Marilyn Humphries except 1, 7, and 10



12

OBAMA: BEYOND THE POLITICS OF FEAR?

Interview with ACLU Keynote Speaker Glenn Greenwald

Glenn Greenwald—author, *Salon.com* columnist, and a rising voice in American media—delivered the keynote speech at the ACLU of Massachusetts 2009 Statewide Conference, addressing a packed house at UMass Boston in February. Afterwards, *The Docket* sat down with Greenwald to discuss his work, the new administration, and the state of civil liberties in America.

Q: You've been described as a blogger and as a columnist. Which do you prefer?

A: Blogger, I suppose. I'm not much for labels, but I think blogger is more accurate. The Web allows for an immediacy that a traditional columnist doesn't have. I also think it's important to recognize what this new medium, blogging, brings to our national discourse. It has changed major news stories, exposed corruption and hypocrisy, served as a check on corporate media, and influenced political races. That's an impressive list given the young age of the medium.

Q: The ACLU shows up a lot in your writing and broadcasts. Do you have an ACLU connection?

A: I've never worked there or done an internship, if that's what you mean. But given my professional background [constitutional law], and what I feel compelled to write about [politics, law, and media], it's only natural that the ACLU would appear. They are doing some of the most important work in the country right now in attempting to peel away the layers of secrecy surrounding the previous administration.

Q: During your keynote address, you opened with a cautionary reminder that change is only possible if we understand the obstacles. The first obstacle you listed was mainstream media. Why?

A: Listen to our national conversation, as described by our political and media elite. When the topic gets to investigating the alleged crimes of the Bush administration, the mainstream media response is to scoff at the very notion, describing it as the utterings of unserious and uninformed people, or leftist ideologues and revenge-minded liberals. David Ignatius of *The Washington Post* calls them "liberal score settlers." Only "civil liberty extremists" would insist on criminal investigations, as *Time* magazine's Joe Klein once put it.

Q: By that definition, couldn't one describe America as a country with tens of millions of extremists?

A: Yes. And personally, I view "civil liberty extremist" as a compliment. Read the Constitution of the United States. It's an extreme document, written by extremists who no longer believed in what was then the dominant form of government—monarchy. The idea of self-government was a radical and extreme position. And the insurgency they started to establish this idea of self government turned out to be an important event.

Q: Would right wing talk radio vilify the founding fathers today?

A: (Laughing.) They would call them "America bashers" no doubt. But that's the danger of our corporate media today. They are framing the discussion and attempting to portray those who call for investigations as radicals and out of touch with America. If you expect the rule of law to apply to our political leaders, then you are a "fringe element" according to mainstream media. However, polls reveal a different story. A recent *New York Times/ABC News* poll shows the American people are in favor of investigations, and by a sizeable margin—55% to 31%. These are not insignificant margins.

Q: Can the Obama administration change the conversation?

A: They can try, but the amplification by our mainstream media is no small matter. Look at how they talk about Obama. When he is praised by the media and pundits—even from within his own party at times—the praise is how he's not beholden to the Left. How he's centrist or post-partisan, which is the phrase that's in vogue today.

Q: Post-partisan? What do they mean by that?

A: Post-partisan is the media's clever way of saying that being an ideologue is bad, which is usually followed by the notion that being an ideologue from the Left is even worse. Ideologues are "bad" in the post-partisan world, but ideologues from the Left are downright dangerous, so says our media. Again, the attempt is to maintain the status quo by discrediting ideas from the Left as "out of touch," despite an overwhelming victory in November by the candidate of the Left who campaigned on those leftist policies.

Q: What's the endgame here? Why this concerted effort to discredit the Left's agenda?

A: The intent is to portray the last eight years as standard operating procedure, so that lawbreaking

by political leaders is viewed as standard operating procedure. If you study the executive branch since 1980, you will see that breaking the law has become standard operating procedure.

Q: Many ACLU members are optimistic that Obama will restore the rule of law, and restore our system of checks and balances that the Constitution calls for. Do you share that optimism?

A: Barack Obama's intentions with regards to civil liberties are unknown, in part because his administration is just getting started. He has made good decisions with some civil liberties issues thus far, and handled others quite poorly, in my opinion. But even if Barack Obama were a leader of extraordinary gifts, and there's ample evidence to suggest that he is, no one person can restore civil liberties or return this country to the rule of law. That can only happen if an extraordinary leader is pushed to do so by a mass of citizens that is active, vocal, and committed to seeing real change in our government.

Q: Sounds like a job for our members?

A: No doubt many ACLU members will be on the front line of this fight. Ultimate success, however, depends on how many other Americans will stand alongside your members and make this return to the Constitution a reality.



Author and *Salon.com* columnist Glenn Greenwald
Photo by Marilyn Humphries

Glenn Greenwald's widely read blog provides incisive commentary on politics, media, and civil liberties. Now entering its fourth year, Greenwald's blog attracts well over 100,000 readers each day, giving him one of the largest and most loyal audiences on the Internet. His work is often cited by members of Congress, the New York Times, the Washington Post, the Los Angeles Times, and others. Greenwald also appears frequently on the

Rachel Maddow Show, Bill Moyers Journal, and Democracy Now! with Amy Goodman. He is the author of three bestselling books: *How Would a Patriot Act*, *Tragic Legacy*, and *Great American Hypocrites*. **D**

A podcast of Glenn Greenwald's speech is online at: www.aclum.org/podcasts

Legal Briefs

Learn more about these cases > www.aclum.org/docket

[CONTINUED FROM PAGE 2]

■ Supreme Court revives sexual harassment case

In a stunning reversal, the U.S. Supreme Court ruled 9-0 in January that a child who said she had been sexually harassed by an older boy on the school bus had the right to proceed with civil rights claims against the school system for denial of equal protection of the law. In *Fitzgerald v. Barnstable School Committee*, the unanimous Court, in an opinion by Justice Alito, ruled that a parent or child may bring a constitutional challenge to sex discrimination in public schools under an old civil rights law, Section 1983, even though she lost her claim under a more recent law, Title IX, which bars sex discrimination by schools receiving federal funding. Reversing the U.S. Court of Appeals for the First Circuit, the Supreme Court held that Title IX is not comprehensive and does not provide the same remedies as Section 1983, demonstrating that Congress did not intend Title IX to preclude the use of other civil rights statutes.

The ACLU of Massachusetts and the ACLU's Women's Rights Project had filed an amicus brief in the First Circuit, urging this result, and filed another

brief with national women's rights organizations in the Supreme Court after the plaintiffs lost in the First Circuit.

■ Supreme Judicial Court upholds right to waive jury of six

After jury selection yielded only five jurors to decide a DUI case, the defendant waived his right to six jurors. The trial proceeded, and the jury acquitted him. However, the Commonwealth then attempted to retry him, claiming that a five-person jury was impermissible and therefore a retrial would not constitute double jeopardy.

Acknowledging an amicus brief filed by Bill Newman, director of the ACLU Western Massachusetts Legal Office, and Carlo Obligato of the Committee for Public Counsel Services, the Supreme Judicial Court disagreed. In *Commonwealth v. Dery* and a companion case, *Commonwealth v. Nicoll*, the Court held that although a defendant in state district court has an absolute right to a jury of six, he also retains the right to waive that right.

■ Court sees possible sex discrimination in statutory rape prosecutions

The Supreme Judicial Court of Massachusetts has ruled that a 14-year-old boy being prosecuted for statutory rape has the right to obtain information from the district attorney's office in order to show sex discrimination against him.

In a friend-of-the-court brief, the ACLU of Massachusetts and the national ACLU Women's Rights and Reproductive Freedom Projects argued that the DA's office may have engaged in sex stereotyping and impermissible selective prosecution based on gender. Technically, the boy was a victim of statutory rape as much as the three girls involved in sexual activity—all the children were under age 16—but the DA refused to bring any charges against the girls.

These sex stereotypes harm women and girls, as well as males selected for prosecution on that basis. The SJC ruling was a victory for those working for equal rights and an end to sex discrimination. **D**

Candidate Statements for Election to ACLU of Massachusetts Board Class of 2012

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

Nominated New Members

Mary Fifield: Ms. Fifield, a former journalist, has a wide-ranging background in politics, government, and public relations. She has produced headline programming for the major American television networks, including *20/20* and *World News Tonight* for ABC News, *Nightly News* for NBC, and *Face The Nation* for CBS News. Following assignments in Washington D.C., Manhattan, and Houston, Ms. Fifield spent three years in Rome, where she was a producer for CNN's *Headline News*. Earlier, she was press secretary to former Governor Michael Dukakis, and assistant press secretary to presidential candidate Jimmy Carter. She is the recipient of a Publicity Club of New England award for her work building organizational identities. Ms. Fifield formed the strategic communications consulting firm, Mary Fifield Associates, in 1995. She is the happy mother of one fabulous daughter, Molly Allis, who is currently making her way through life as a singer-songwriter.

She is also the recent past president of the Massachusetts Women's Political Caucus (and a member of its board) and the vice chair of The Medical Foundation.

Ellen Lubell: Ellen Lubell, Esq., of Tennant Lubell, LLC in Newton, works with nonprofits ranging from colleges and museums to scientific societies and social service organizations. She also focuses on intellectual property law, representing publishers, counseling companies, and advising individuals on protecting and licensing copyrightable works and new technologies. Ellen previously worked as outside counsel for Harvard, served as General Counsel at Education Development Center and Counsel for Research and Tech Transfer at UMass, and was a health law attorney at Goulston & Storrs in Boston. For the past two years, Ellen has been representing an Algerian man detained at Guantánamo. She has focused on child abuse in many capacities and was a Harvard Law School Human Rights Fellow at the International Labor Organization in Geneva, Switzerland. Before attending law school, she worked in a Laotian refugee camp on the Thai border. Ellen is a graduate of Princeton University and Harvard Law School.

Norma L. Shapiro: Since 1989, Norma Shapiro has been a volunteer legislative lobbyist for the American Civil Liberties Union of Massachusetts. She has worked on a broad range of issues including public education—curriculum, safety, and adequate and equitable funding; anti-discrimination measures relating to race, disability, immigrant status and sexual orientation; women's issues including economic and reproductive freedom; First Amendment issues such as free speech and religion; and justice issues such as crime, punishment, the death penalty, drug policy reform, and ensuring due process. Ms. Shapiro is also a past Chair of the Massachusetts Coalition for Choice, which defends reproductive freedom, and since 1989 has been President of the Council for Fair School Finance, which works to secure adequate funding for public schools through litigation. Norma received both the Luther Knight Macnair Award (2003) from the ACLU of Massachusetts and the Roger Baldwin Award (2008) for advancing the causes of civil liberties and civil rights.

John Thomas: Dr. Thomas, an eye surgeon with the Ophthalmic Consultants of Boston, has been in private practice since 1979. He is a clinical instructor of ophthalmology at Harvard Medical School and a clinical assistant professor of ophthalmology

at Tufts University School of Medicine. He is on the staff of the Massachusetts Eye and Ear Infirmary and the Massachusetts General Hospital. He specializes in cataract and intraocular lens implant surgery, glaucoma surgery and in the laser treatment of glaucoma. He is an author or co-author of 65 scientific articles and two textbooks. A longtime member of the ACLU, he is also a member of Physicians for Social Responsibility and Physicians for Human Rights.

Paul Y. Watanabe: Paul is Director of the Institute for Asian American Studies and Associate Professor of Political Science at the University of Massachusetts Boston. He currently serves or has served on the Boards of the Nisei Student Relocation Commemorative Fund, Asian American Policy Review, Political Research Associates, Massachusetts Immigrant and Refugee Advocacy Coalition, Asian Task Force Against Domestic Violence, Asian Pacific American Agenda Coalition, and Harvard Community Health Plan. His principal research interests include political behavior, public policy, ethnic group politics, Asian Americans, and American foreign policy. He is the author of *Ethnic Groups, Congress, and American Foreign Policy* and principal author of *A Dream Deferred: Changing Demographics, New Opportunities, and Challenges for Boston*. Paul regularly contributes analysis and commentary to national and local television, radio, newspapers, and newsmagazines. He was born in Murray, Utah, and he received his Ph.D. in Political Science from Harvard University.

Susan Yanow: After many years providing therapy services, with a specialty in working with women and children with issues of violence and abuse, Susan transitioned to a career in political activism. A longtime reproductive rights activist, Susan was the co-founder (1992) and founding Executive Director of the Abortion Access Project. Ms. Yanow is currently a consultant to a number of domestic and international reproductive rights and health organizations, including the Advancing New Standards in Reproductive Health (ANSIRH) program at the Dept. of Ob/Gyn at UCSF, Planned Parenthood New York City, the Reproductive Health Access Project (RHAP), and Women on Web. She has also consulted to the Byllye Avery Institute for Social Change, the International Consortium on Medical Abortion (ICMA), and SisterSong. Susan has served on the ACLU of Massachusetts Nominating Committee since 2006.

Incumbents

Malick Ghachem: I am a lawyer and historian. After a number of years in and around academia, I cut my teeth as a lawyer at a small and venerable North End law firm (Zalkind Rodriguez). There I became involved in litigating civil liberties (particularly First Amendment) issues on both the criminal defense and civil fronts. In 2007 I moved to Weil Gotshal, where I am now a senior associate in litigation. I continue to handle a mix of criminal and civil cases. My "other life" is as a teacher and historian. I taught civil liberties and criminal law to MIT undergrads for several semesters in 2006 and 2007. I write more or less continuously on the law of slavery and the Haitian Revolution. My interests are in all things Haitian, the First Amendment, criminal defense work, and the civil liberties aspects of risk management (financial, environmental, national security).

Pablo Navarro-Rivera: Pablo Navarro-Rivera is a member of the board of directors of the ACLU of Massachusetts and has worked in higher education for over 30 years. He completed his master's and doctoral degrees at the Harvard University Graduate School of Education.

Since 1995 he has been a member of the faculty at Lesley University in Cambridge, Mass. At Lesley, Navarro-Rivera is the executive editor of the online *Journal of Pedagogy, Pluralism and Practice* and, since 2000 directs the program "The Cuban Experience in Education and the Arts." His research has been presented at conferences in the United States and abroad.

He is the author of a book on the history of higher education in Puerto Rico and has written numerous essays, including:

- The ACLU and Civil Liberties in Puerto Rico;
- *Journal of Pedagogy, Pluralism and Practice*, a peer-reviewed online publication of Lesley University, Issue 11, 2007 (<http://www.lesley.edu/journals/jppp/11/index.html>).

Christopher Pyle: Chris Pyle teaches constitutional law and civil liberties at Mount Holyoke College in South Hadley, Mass. In 1970 he disclosed the military's surveillance of civilian politics and worked with the ACLU and three congressional committees to end it. He has been a frequent witness before congressional committees on civil liberties issues and has published three books: *The President, Congress, and the Constitution* (1984, with Richard Pious), *Military Surveillance of Civilian Politics* (1986), and *Extradition, Politics, and Human Rights* (2001). Pyle has written and lectured on freedom of expression, gender equality, rights of privacy, student rights, the detention of aliens, military tribunals, and torture. Most recently he has been helping to publicize the military's current surveillance of the anti-war movement, NSA's illegal eavesdropping on Americans, and the implications of "unitary executive power." He is also chairman of the Petra Foundation, a national organization that recognizes "unsung heroes" who make extraordinary contributions to social justice. In 2004, Pyle received the Luther Knight Macnair Award from the ACLU of Massachusetts for his contributions to civil liberties.

2009

ACLU of Massachusetts Board Ballot

The ACLU of Massachusetts annual meeting where new board members are announced will be held on Monday, June 22, 2009. For more information, call 617-482-3170.

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

Ballots must be received in the ACLU of Massachusetts office, 211 Congress Street, Boston, MA 02110 by **May 15, 2009**.

For more information on the ACLU of Massachusetts nominating and voting procedures for the Board of Directors, go to www.aclum.org/about.

Vote for 9 or fewer

- | | | |
|--------------------------|--------------------------|----------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Mary Fifield |
| <input type="checkbox"/> | <input type="checkbox"/> | Ellen Lubell |
| <input type="checkbox"/> | <input type="checkbox"/> | Norma L. Shapiro |
| <input type="checkbox"/> | <input type="checkbox"/> | John Thomas |
| <input type="checkbox"/> | <input type="checkbox"/> | Paul Y. Watanabe |
| <input type="checkbox"/> | <input type="checkbox"/> | Susan Yanow |
| <input type="checkbox"/> | <input type="checkbox"/> | Malick Ghachem |
| <input type="checkbox"/> | <input type="checkbox"/> | Pablo Navarro-Rivera |
| <input type="checkbox"/> | <input type="checkbox"/> | Christopher Pyle |

More Statewide News

■ Worcester Peace Works honors ACLUM

Worcester Peace Works presented the Worcester County Chapter of the ACLU of Massachusetts with its Peace Award on January 19, 2009, as part of Peace Works' annual Martin Luther King Jr. Day celebration.

The Worcester Chapter received the award for its frequent work in the struggle for justice and providing help to the Worcester Peace Community. Among other things, the Worcester Chapter has provided monitors for demonstrations, and intervened on Peace Works' behalf when the organization passed out flyers in front of the Worcester Centrum Centre, explaining Peace Works' rights to Centrum management. The Worcester Chapter also negotiated the use of a bullhorn at political events, as well as a policy for the City of Worcester regarding photography at demonstrations.

■ Worcester County ACLUM chapter secures right to wear head scarf during prison visit.

After jail officials denied a Muslim woman permission to visit her imprisoned husband because she refused to remove her head scarf, the ACLU of Massachusetts Worcester County Chapter intervened. The chapter made arrangements with the jail's deputy superintendent to have the woman visit when a matron or nurse is available to conduct a search of her veil and scarf, enabling her visits to go forward. In a note of thanks in March, the woman wrote, "The female officers I have dealt with have all treated me with respect and dignity." **D**

> www.aclum.org/docket



The ACLU of Massachusetts Western Regional Office in Northampton has protected the right of a private group to hold its own Fourth of July parade in Amherst. Responding to ACLU pressure, the Town of Amherst backed off its

preemptive reservation of the major parade route through town, which effectively blocked a private parade that had taken place on July 4 for the past eight years. Organizers of the original parade allowed any group to march in the parade carrying a sign bearing its own name, but blocked people from carrying individual signs.

The ACLU argued that no private group should be forced to organize an event promoting others' views. In this photo taken at the 2008 parade, ACLU of Massachusetts Western Massachusetts Legal Office director Bill Newman (right), with his daughter Leah Newman, show that they were still free to express themselves along the parade route without marching in it. There was no need for the city to prevent the private parade from taking place.

Learn more about these cases
> www.aclum.org/docket

ACLU Sues to Stop Religious Restrictions on Trafficking-Victim Services

[CONTINUED FROM PAGE 4]

"There are many organizations that are deeply committed to assisting trafficking victims," said Brigitte Amiri, staff attorney with the ACLU Reproductive Freedom Project and lead counsel on the case. "Our government should ensure that these organizations can provide the full range of needed services, including reproductive health care."

Through the Trafficking Victims Protection Act, the federal government distributes funds to cover an array of services needed by the more than 14,000 individuals, predominantly women, who are brought into the United States annually and exploited for their labor, including in the commercial sex indus-

try. Many trafficking victims experience extreme violence and sexual assault at the hands of their traffickers. Some become pregnant as a result of rape, and some contract sexually transmitted infections, including HIV.

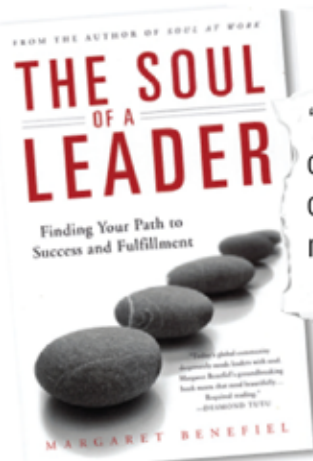
"We are asking the court to stop this misuse of taxpayer dollars and to protect the health and safety of trafficking victims," said Sarah Wunsch, ACLU of Massachusetts staff attorney. "Trafficking victims need comprehensive and compassionate care to gain their freedom and lead safe and healthy lives." **D**

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