

## With Ban Lifted, Noted Scholar Returns to Boston

ACLU challenged denial of visa to Professor Adam Habib because of his political views.

**A**fter years of being wrongfully denied entry on the basis of his political views, Professor Adam Habib of the University of Johannesburg was able to return to the U.S. in March for in-person talks in Boston and around the country. The ACLU had challenged the Bush administration's revocation of Prof. Habib's longstanding visa and subsequent denial of a new visa application—as well as similar treatment of Prof. Tariq Ramadan of St. Antony's College, Oxford University—in separate lawsuits filed on behalf of organizations that had invited them to the United States.

In a major victory for civil liberties, Secretary of State Hillary Clinton in January signed orders effectively ending the exclusion of Profs. Habib and Ramadan. Both men have since obtained 10-year visas and have returned to the U.S. to participate in various events and discussions with academics, members of Congress, and the public.

"Freedom of speech also means the freedom of Americans to hear what speakers have to say," said Sarah Wunsch, staff attorney with the ACLU of Massachusetts, who worked on Habib's case on

behalf of organizations in the Boston area that had invited him to speak. "We are pleased that Prof. Habib is now able to accept invitations to speak in Massachusetts, and that audiences here have the opportunity to hear and engage with him."

Prof. Habib is an internationally known political analyst and Deputy Vice Chancellor of Research, Innovation and Advancement at the University of Johannesburg, as well as a Muslim who has been a vocal critic of the war in Iraq and some U.S. terrorism-related policies. The ACLU and the ACLU of Massachusetts filed the lawsuit in 2007 challenging his exclusion on behalf of the American Sociological Association, the American Association of University Professors, the American-Arab Anti-Discrimination Committee, and the Boston Coalition for Palestinian Rights.

"It is wonderful for my wife Fatima and me to be back in the United States and to be able once again to engage with our many professional colleagues and friends here," said Habib. "Secretary Clinton's decision to end my exclusion is an important one for the advancement of free speech, human rights, and accountable government in the U.S. and glob-

ally. It is important that she follow through on this initial step and bring to an end the practice of ideological exclusion."



Secretary of State Clinton has lifted an ideologically motivated ban that prevented Prof. Adam Habib (above) from speaking in the U.S. Hear his recent talk at Harvard University: [www.aclum.org/docket](http://www.aclum.org/docket)

### 90TH ANNIVERSARY!

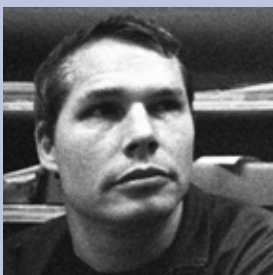
Bill of Rights Dinner, May 27, with:



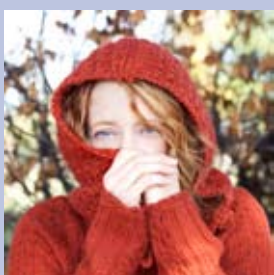
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Singer/Songwriter  
Patty Larkin

Buy tickets > [aclum.org/dinner](http://aclum.org/dinner)

## Massachusetts Supreme Judicial Court Rules Against Warrantless Search in Homeless Shelter

**R**esidents of homeless shelters cannot be relegated to second-class constitutional status, under a ruling issued in March by the Supreme Judicial Court of Massachusetts. The ACLU of Massachusetts filed a friend of the court brief in the case, *Commonwealth v. Porter P*, which affirmed that constitutional protections against unreasonable searches and seizures apply to residents of homeless shelters, just as they do to renters or students in dorms.

The case resulted from the prosecution of a juvenile based on evidence obtained by police during a 2006 search of his locked room in a homeless shelter. The shelter manager gave consent to the search, but the occupants of the room did not.

In finding for the rights of the shelter's occupants, the Court rejected the claim that there was less protection for transitional housing or that the shelter manager could consent to the search.

"The Court concluded that, although transitional, the room at the shelter was the family's home

and therefore entitled to the full protection of the state constitution. And, while recognizing that the shelter manager retained the right to enter the room to inspect the premises, she could not consent to a police search. That, the Court found, could only be done with a warrant," said John Reinstein, legal director for the ACLU of Massachusetts.

The ACLU, along with the Committee for Public Counsel Services and other groups, argued that endorsement of the search would consign the homeless to second-class status under the Constitution.

"The Court has ruled that homeless citizens are entitled to no less protection than those in our country who have housing," said Carol Rose, executive director of the ACLU of Massachusetts. "Especially in tough economic times, which have driven more people into poverty, we must remember that the Constitution does not distinguish between rich and poor."

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### Inside



### When We Are All Suspects

Excerpts from  
our report  
on domestic  
surveillance, p. 2



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DOMESTIC SPYING IN MASSACHUSETTS

When We Are All Suspects

In February, the ACLU of Massachusetts released a major report on domestic surveillance in the Commonwealth. Read this excerpt.

Americans increasingly are aware that the massive U.S. intelligence system that had failed to prevent the 9/11 attacks remains prone to what President Obama terms a “systemic failure.” The 2009 Christmas Day plot to bomb an airplane bound for Detroit was not, the President said, “a failure to collect intelligence. It was a failure to integrate and understand the intelligence that we already had.”

The false assumption that the nation can be kept safe by applying “advanced technology” to massive databases, sharing the information with a wide range of partners, and “integrating all instruments of national power to ensure unity of effort” (to quote from the National Counterterrorism Center’s mission statement) has fostered the emergence of a national security surveillance state. This complex involves federal, state, and local law-enforcement agencies, as well as private entities and foreign governments. Today, some 800,000 local and state operatives are dispersed throughout American cities and towns, filing reports on even the most common everyday behaviors, and feeding this information into state, local, and regional “fusion centers” under the auspices of a National Strategy for Information Sharing or ISE. This initiative facilitates near real-time sharing of information from a variety of databases among law enforcement officials and others. A new “homeland security” industry is flourishing, with lucrative gains going to Lockheed Martin, Raytheon, Boeing, Northrop Grumman and other major defense contractors, despite their reportedly inadequate performance.

The loss to civil liberties and potential for abuse is far-reaching. With virtually no public discussion about the growing domestic surveillance apparatus and its methodology, we are in danger of losing such core values as the presumption of innocence and the right to privacy. Where intelligence used to mean gathering information for discreet criminal investigations, the definition of intelligence has been re-written to include the broad collection of information about everyday activities in hopes of detecting (and preventing) future behavior. Algorithms detect “pre-crime” in a world in which we are all potential suspects.

This report focuses on the contours and implications of the new domestic intelligence paradigm for the Commonwealth of Massachusetts. Massachusetts, which played such a primary role in attaining the “blessings of liberty” enshrined in the Constitution and Bill of Rights, must again exercise leadership to ensure that liberty and security can co-exist in the 21st century. As the hubs and practices of the new surveillance network get established across the state, we urgently need sunlight to expose what is taking shape in the shadows, a public debate about the kind of society we want to be, and remedial legislative action.

Lessons of 9/11 and the Christmas Day Plot: More Data Doesn’t Make Us Safe

President’s Obama’s warning after the 2009 Christmas Day plot that more intelligence data doesn’t necessarily keep us safe echoes statements from the multiple reports into the intelligence failure that led to the 9/11 terrorist attacks. Then too, the problem was not lack of information. Rather, intelligence agencies were drowning in information. According to one source, the highly secretive Echelon spy network run by the National Security Agency processed three million electronic communications a minute. Then, as now, the U.S. intelligence community failed to translate and analyze intelligence intercepts in a timely fashion and do what was needed to “connect the dots.” The result was the litany of bureaucratic blunders, missed opportunities, turf wars, poor training, ineptitude, and systemic weakness detailed in the 900-page report from the House and Senate Intelligence Committees.

In its review of how a 23-year-old Nigerian national, Umar Farouk Abdulmutallab, managed to evade the post-9/11 U.S. intelligence network and board a plane carrying an explosive device, the White House reported that the security failure was not caused by the entrenched resistance to sharing information that preceded the 9/11 attacks. Rather it was a failure of “intelligence analysis” for which the CIA and the National Counterterrorism Center were chiefly responsible.

Five years after an extraordinary new layer of bureaucracy was established and heavily funded to promote effective intelligence sharing, integration, evaluation and dissemination, the National Counterterrorism Center (NCTC) has been found seriously wanting. Encompassing a dozen “partner agencies” from within the federal government as well as numerous “foreign partners,” it maintains the National Counterterrorism Center’s Terrorist Identities Datamart Environment (TIDE) system.

Well before Abdulmutallab took his seat on a plane, the TIDE system was seen to be suffering from what one Member of Congress called “serious, longstanding technical problems,” and the attempt to fix it was a \$300 million failure.

That is where Abdulmutallab’s name and biographical data were deposited after his father in November 2009 told the U.S. Embassy in Abuja, as well as CIA officials, about his son’s possible ties to extremists in Yemen. There that information remained, along with a rising tide of information about some 550,000 other identities. Despite the fact that Abdulmutallab had been listed on a U.K. watch list in May 2009, and despite intelligence about a plot involving a “Nigerian” trained in Yemen, his name was never moved from the TIDE system to the master watch list

*Continued on page 6*



We are in danger of losing such core values as the presumption of innocence and the right to privacy.

## LETTER FROM THE EXECUTIVE DIRECTOR

## 90 Years of Leading Freedom Forward

By Carol Rose

The ACLU of Massachusetts, like the national ACLU, came into existence in 1920. It was formed when a small group of people met in the Beacon Hill home of Mrs. Margaret Shurcliff in Boston, gathering to join the call of ACLU founder Roger Baldwin to resist the widespread government crackdown on anti-war dissenters, labor organizers, and immigrants that was taking place just after World War I.

They formed the Massachusetts Civil Liberties Committee, later known as the Civil Liberties Union of Massachusetts—CLUM—and, ultimately, the ACLU of Massachusetts. Thus began a 90-year quest to defend and extend the boundaries of freedom in Massachusetts and beyond.

Forming the ACLU was an extraordinary act of courage and hopefulness. In 1920, the U.S. Supreme Court had yet to uphold a single free-speech claim. Activists were languishing in jail for distributing anti-war literature. State-sanctioned violence against African-Americans was routine. Women won the vote only that year. Constitutional rights for lesbians and gays, bisexual, and transgender people were unthinkable.

In 1920, the Bill of Rights was little more than a piece of paper, with no real enforcement mechanism. Since then, one case and one legislative battle at a time, the ACLU has become the enforcement mechanism for liberty and justice for all.

The ACLU's early work focused on freedom of speech. In the 1920s, the Civil Liberties Union of Massachusetts stepped in to defend birth-control pioneer Margaret Sanger's right to speak on the Boston Common. In 1938, CLUM opposed efforts by Boston Police Commissioner Joseph F. Timilty to "ban in Boston" issues of *Life* magazine featuring a story called, "The Birth of a Baby."

In the 1950s, the Massachusetts affiliate broke with the national ACLU over defending people who were targets of the Red Scare purges. Led by then-executive director Luther Macnair, CLUM lawyers stood with the people who were summoned by the federal House Committee on Un-American Activities and its local counterpart in Boston.



The Civil Liberties Union of Massachusetts again broke with the national ACLU in 1968, announcing that it was willing to defend the famous pediatrician Dr. Benjamin Spock and four other anti-war activists who had organized "Stop the Draft" week.

Under the leadership of its second executive director, John W. Roberts, the organization expanded its equality and racial justice docket. It was during this time that CLUM won the case of *Moe v. Secretary of Administration and Finance*, securing a Massachusetts woman's right to reproductive choice under the Massachusetts state constitution. CLUM also became a bulwark against the death penalty and led efforts to challenge racial profiling in traffic stops—the "Driving while Black or Brown" campaign.

Today, after 90 years, the work of the ACLU is as relevant as ever. Now, as in 1920, we are working to stop indefinite detentions and deportations without due process. Now, as then, the ACLU is our nation's leading voice against government repression of dissent and surveillance of unpopular groups.

We remain the nation's leading free speech organization, defending not only speech on the Boston Common, but now online as well.

Now, as we have for 90 years, the ACLU defends your right to privacy—freedom from un-

## On Liberty

Read more on Carol Rose's boston.com blog, "On Liberty"!

> [www.aclum.org/blogs](http://www.aclum.org/blogs)

Recent topics have included:

- For women, it's still 77 cents for every \$1 earned by a man
- Why Justice Stevens matters
- Who owns your genes?

warranted government intrusion into personal and private affairs, including the right to worship—or not—as you please, and every woman's right to make her own reproductive decisions.

As we have for 90 years, the ACLU is on the forefront of working to ensure that equal justice for all truly means equality for all people, regardless of race, ethnicity, religion, sexual orientation, gender, or gender expression.

For nine decades the ACLU has been at the center of one critical, history-making court case after another—and we've won far more than we've lost, re-shaping the definition of freedom in America in the process.

Underlying all this work is our membership—people from every walk of life. Like those who gathered in the Shurcliff living room in 1920, our members understand that freedom does not defend itself. For rights to be real, ordinary people must join together in defense of liberty.

ACLU members make every part of our work possible—from our landmark legal cases, to our unyielding legislative advocacy, to our public education programs designed to ensure that the next generation remains as true to the cause of defending civil liberties as past generations have been. Together with you, as we have for 90 years, the ACLU will continue to lead freedom forward.


**90<sup>th</sup> Anniversary**  
**BILL OF RIGHTS DINNER** *May 27, 2010*  
 Rep. John Lewis • Shepard Fairey • Patty Larkin • Lewis Black

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

**ICE Imprisons Sri Lankan Torture Survivor in Boston**

For more than 21 months, the Department of Homeland Security (DHS) has held a Sri Lankan torture survivor in a Boston jail, even though a judge granted him asylum more than a year ago. The ACLU filed suit in April in U.S. District Court, asking for the immediate release of Baskaran Balasundaram, or at least a fair hearing to determine whether detention is appropriate.

Balasundaram is a 27-year-old Tamil farmer who has suffered severe persecution from both sides in Sri Lanka's bloody civil war. In May 2007, the rebel forces known as the "Tamil Tigers" captured Balasundaram at gunpoint and held him at one of their training camps. He managed to escape, only to be repeatedly captured and tortured by Sri Lankan government forces because of his Tamil ethnicity.

He fled to the U.S. but was immediately taken into custody by DHS, where he has remained ever since. DHS claims that by being forced to work in the Tamil Tiger training camp making food for other captives he provided "material support" to a terrorist organization and should therefore be barred from receiving asylum. They refuse to release him while the proceedings take place—a process that could last years.

**Worcester County Chapter Seeks Police Department Accountability**

As Worcester police continue facing charges of excessive use of force, the Worcester County Chapter of the ACLU of Massachusetts is examining ways to make the Worcester Police Department more accountable, including:

- implementing a civilian review board;
- hiring law enforcement experts to evaluate the police department's procedures for dealing with complaints of excessive force;
- asking the City Council to send the issue to the Council's Public Safety Committee.

Since 1999, the City of Worcester has reportedly settled 20 lawsuits alleging excessive force by Worcester police, costing the city \$1,264,750. More lawsuits are pending. The *Worcester Telegram & Gazette* has reported that Officer Mark Rojas has been the subject of at least 15 internal misconduct probes.

Additionally, the *Telegram & Gazette* has filed suit against the City of Worcester and police chief Gary J. Gemme, seeking full access to more than 1500 pages of information—more than half of which have been completely blacked out—concerning Officer Rojas. The case is before Judge C. Brian MacDonald.

For more information or to get involved, call the Worcester County Chapter at (508) 752-5363, or email [wcaclum@verizon.net](mailto:wcaclum@verizon.net).

**Help Support Transgender Civil Rights Bill in Massachusetts**

Last year, Amherst town meeting members voted unanimously to add "gender identity or expression" to the town's human rights code, making Amherst the fourth Massachusetts municipality to protect transgender people from discrimination.

Now it's time to take equality statewide. The ACLU and allied organizations are continuing the fight to update our state civil rights laws in order to end discrimination based on gender stereotyping, and we're making headway.

Reactionary opponents of equality have said that this is "probably the most critical moment since the final votes on same-sex marriage back in 2007." But a recent Lake Research Partners Poll showed 76 percent of Massachusetts voters support the legislation.

Take action for equality now at [www.aclum.org/action](http://www.aclum.org/action).

**ACLU Blocks Easthampton Sign Ordinance Favoring Commercial Speech over Political Speech**

A proposed sign ordinance in Easthampton stalled in February after the ACLU of Massachusetts objected on constitutional grounds. The proposal discriminated against political speech by allowing other types of signs to be displayed in more places, to be larger, and to stay up longer.

"A municipality cannot treat political speech less advantageously than commercial or other speech," wrote ACLU attorney Bill Newman in a letter to City Attorney John Fitz-Gibbon. Newman also addressed the committee that drafted the proposal.

The dispute has received significant local media attention. City officials thanked the ACLU for its constitutional analysis and criticism, and are currently redrafting the proposal.

**ACLU Investigates Use of Stun Guns at Worcester Jail**

In response to reports of serious injuries to prisoners, the ACLU of Massachusetts has filed a public records request with the Worcester County Sheriff's Office to obtain information regarding the use of the FN303—a supposedly "less lethal" projectile weapon—following reports of the weapon's indiscriminate use at the Worcester County Jail and House of Correction.

The FN303, whose use by Boston police resulted in the 2004 death of an Emerson College student, is employed to subdue prisoners during removal from their cells. The weapon can at times result in penetrating wounds.

**MASSACHUSETTS CIVIL LIBERTIES ROUND**



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**ACLU and Amnesty International Seek Improved State Oversight of Tasers**

The ACLU of Massachusetts and Amnesty International are questioning the adequacy of the state's oversight of the use of Tasers by police officers in Massachusetts. In a letter sent in February to Massachusetts Secretary of Public Safety and Security Mary Elizabeth Heffernan, the two groups asked the Executive Office of Public Safety and Security (EOPSS) to undertake a comprehensive review of the regulations governing police use of electronic weapons such as the Taser, known as conducted energy devices (CED), and the training that police officers receive.

In spite of mounting evidence that electronic weapons such as the Taser can cause serious injury or death, use of a CED by police officers in Massachusetts has expanded rapidly in the past several years. An August 2009 EOPSS report on the frequency of Taser use in Massachusetts shows that 44 law enforcement agencies in Massachusetts now include Tasers in their arsenal and that the number of times the weapons were fired increased by more than 500 percent from 2006 to 2008. Amesbury, Attleboro, Fall River, Framingham, and Wareham reported the most frequent use of Tasers, with Wareham accounting for approximately 10 percent of the statewide total.

**ACLU Forms Boston Police Complaint Assistance Project**

Help is available to file complaints against Boston police officers, thanks to a new project of the ACLU of Massachusetts, the Suffolk Law School Pro Bono Program, and the National Police Accountability Project of the National Lawyers Guild. Law students, working under attorney supervision, can help people who feel that they have been:

- stopped and searched without cause;
- singled out because of characteristics such as race, religion, sexual orientation, or national origin;
- subjected to abusive language by police;
- arrested without cause and then found not guilty or had charges dismissed or dropped;
- subjected to excessive police force.

The project's goals include identifying police officers who are abusive, developing recommendations for how the police department responds to complaints of misconduct, and helping to ensure that the police force is accountable to the community.

For information, call the ACLU at 617-482-3170, or write: Intake Attorney, ACLU of Massachusetts, 211 Congress Street, Boston, MA 02110.

## Appeals Court Grants Access to Documents on Prison Double-Bunking

In April, the Massachusetts Appeals Court upheld a lower court ruling granting public access to documents on double-bunking at the state's only maximum security prison, the Souza Baranowski Correctional Center (SBCC), in Shirley.

The documents, requested by Prison Legal Services (PLS) in Nov. 2008, detail the classification system that the Department of Correction (DOC) uses to decide who is put into single cells, who is put into double cells and with whom.

A 2008 restructuring of Massachusetts prisons led to the need to double-bunk formerly single cells at SBCC in order to make more room for maximum security prisoners who were being moved in from other prisons. This, in turn, led to tension, fear, and violence among prisoners. After receiving complaints about enemies being bunked together, and tensions about how the double-bunking was happening, PLS asked to see the tool that DOC was using to make these decisions. When DOC refused, the ACLU of Massachusetts filed suit on PLS's behalf.

## CORI and Sentencing Reform—Now's the Moment!

Since November, when CORI and sentencing reform legislation passed the Massachusetts Senate (with the help of hundreds of ACLU activists who urged their Senators to take action), the ACLU has kept up the pressure.

Speaker DeLeo has repeatedly named CORI reform as a top priority for this spring, so we're hoping to see action in the House directly after the budget debates. This is a jobs bill, a public safety bill, and a cost-saving bill all rolled into one, so it's no wonder legislative support continues to grow.

It's also a civil liberties bill. Making drug offenders serve long mandatory sentences without opportunities for program participation or parole, and insisting that people's past mistakes follow them forever, costs too much—both in raw dollars and human potential—and disproportionately harms communities of color. Now is the time to make necessary changes to our overly harsh sentencing and criminal record laws.

Take action:

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

## ACLU Defends Rights of Immigration Detainee to Medical Care

The ACLU of Massachusetts has protected the rights of an Iranian man who was not receiving urgently needed medical care while in immigration detention.

Mohammad Solati was held in detention while fighting a legal battle for asylum. Before entering detention, he had undergone the removal of his right kidney due to cancer, and shortly after he was detained, he began to feel intense pain in the area of his left kidney.

Doctors at the Plymouth County jail determined that he needed to be seen by a specialist, who ordered diagnostic tests. Despite weeks of delay, the Department of Homeland Security failed to approve the tests, and Solati continued to feel increased pain and worry that his cancer could quickly be spreading.

The ACLU filed a habeas corpus petition asking for the government to provide Solati with the necessary care immediately—or release him so he could see his own doctors. In the meantime, cooperating attorney John Jessen of Stamford, Conn., was fighting the legal battle for Solati to remain in the United States.

Early this year, an immigration judge ordered that Solati could not be deported to Iran because he would face torture if returned there because of his past political activities. Authorities released him from detention, and he is now under the care of his private doctor.

## ICA Marks 10th Anniversary of Ruling That Ended Tattooing Ban

It was just 10 years ago that a Suffolk Superior Court judge struck down the Massachusetts law banning tattooing (except by physicians) as an unconstitutional violation of the First Amendment. Sarah Wunsch, staff attorney with the ACLU of Massachusetts, was a key player in the effort to overturn the ban, along with cooperating attorney Harvey Schwartz.

The Institute of Contemporary Art in Boston marked this 10th anniversary with a panel discussion including Wunsch and a tattoo artist who had worked to change the state law, in conjunction with the opening of a new exhibit of work by Mexican tattoo artist Dr. Lakra. The exhibit runs through Sept. 6.

Audio from Wunsch's panel is available online. See [www.aclum.org/docket](http://www.aclum.org/docket).

## ACLU Successfully Defends Clean Water Action Canvassers Arrested in Worcester

Last October, the ACLU of Massachusetts took on the defense of two Clean Water Action canvassers arrested by a Worcester police officer who told them to stop despite the fact that political canvassers are not subject to a city ordinance requiring registration. Police charged one canvasser with disorderly conduct and the other with resisting arrest.

In February, the District Court dismissed the complaint in each of the two cases involving the canvassers. The Court dismissed the complaints without prejudice, meaning that police may file a new complaint that meets the requirements of the rules.

Cooperating attorneys were Hector Pineiro, Robert Scott, and Beverly Chorbajian.

## Missed Our Statewide Conference? Hear Jameel Jaffer's Keynote on "The Right to Know"

Few have done as much to shine light on U.S. government torture and abuse of power as Jameel Jaffer, Director of the ACLU's National Security Program. Jaffer has used Freedom of Information Act lawsuits to unearth thousands of pages of secret documents.

Jaffer spoke at the ACLU of Massachusetts statewide conference in February about rolling back secrecy and achieving accountability. If you missed it—or if you would like to share it with others—the video of Jaffer's keynote address, "The Right to Know," is available online: [www.aclum.org/video](http://www.aclum.org/video).



Jameel Jaffer

## Save the Date!

Thursday, July 29, 2010, 7:00 pm

Chilmark Community Center  
Martha's Vineyard

## An Evening Without

Celebrate the First Amendment with notable actors and authors reading the works of those who have been excluded from the U.S. on ideological grounds. This is an inspiring and sometimes funny evening featuring the works of Dario Fo, Doris Lessing, Emma Goldman, Nelson Mandela, and many others.

For details as soon as they become available, make sure you're on our email list:

> [www.aclum.org/email](http://www.aclum.org/email)

## DOMESTIC SPYING IN MASSACHUSETTS

## When We Are All Suspects (continued)

Continued from page 2

in the Terrorist Screening Center, maintained by the FBI, an NCTC partner organization.

If TIDE is huge, the FBI's Terrorist Screening Database is a behemoth, containing the identities of 400,000 people and well over a million names, including aliases. The FBI decides on a daily basis who should be included on the master watch list, added to the 4,000 strong "No Fly" list or put on the list of about 14,000 people targeted for additional airport screening. The rate at which names are entered onto the master watch list has been steadily growing. The FBI reported to the Senate Judiciary Committee in the fall of 2009 that 1,600 people are being nominated for inclusion every day—more than double the numbers entered in September 2007.

Two weeks before Abdulmutallab's flight, Timothy Healy, the Director of the Terrorist Screening Center, told the Senate Committee on Homeland Security that "our interagency watch-listing and screening efforts have matured into a true information sharing success," and that the numbers on the watch lists will continue to increase "as new screening partners join our national and international enterprise."

According to Healy, those partners now include 17 foreign governments and all 72 state and local fusion centers within the United States.

As the names of "suspects" rapidly multiply, so do the counterterrorism wiretaps that the FBI has failed to review and share with its partner agencies. The Justice Department's Inspector General reported to Congress that 47,000 hours of tapes had not been processed—the equivalent of a recording lasting five and one-half years (representing a quarter of the recordings made since 2003). FBI Deputy Director John Pistole responded that the backlog was not in fact overwhelming, since the FBI had the assistance of "advanced technology" to identify specific tapes to review.

As for the backlog of 7.2 million electronic files waiting for review, the FBI has maintained this too was not a big problem since "its analysts increasingly used sophisticated computer searches of databases to find high priority files rather than opening each individual file by hand." It was not clear whether the agency expects computers also to do the work of translators. Having failed to meet its hiring goals for linguists in all but two of 14 targeted languages, the FBI now has fewer translators on staff today than it did a few years ago, according to the Justice Department's Inspector General.

The Cato Institute warned that this "power to generate a comprehensive data profile on any U.S. citizen" invoked "the specter of the East German secret police and communist Cuba's block watch system."

### The Rise, Fall, and Rise Again of Total Information Awareness

"[O]ur goal is total information awareness..."  
—John Poindexter, *Speech to Defense Technology Conference, 2002*

The past decade has witnessed a radical shift in the work of both national and local intelligence and law enforcement communities in reaction to the failures of 9/11. Rather than insist on holding individuals and institutions accountable, the 9/11 Commission, a bipartisan group set up by Congress, recommended the establishment of the National Counterterrorism Center under a National Intelligence Director to promote a fundamental change in how intelligence agencies carried out their business. "Stovepipes" that separated agencies and information had to be dismantled as a "unity of effort" was built across government: "The system of 'need to know' should be replaced by a system of 'need to share'."

Before the 9/11 Commission report appeared in 2004, building that "unity of effort" had already begun with the merging of 22 government offices into the massive Department of Homeland Security (DHS) and the actions of a research arm of the Department of Defense known as the Defense Advanced Research Projects Agency (DARPA). Late in 2002, *The New York Times* revealed that DARPA's Office of Information Awareness under

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the leadership of Admiral John Poindexter, former National Security Advisor to President Reagan, was planning to "break down the stovepipes" separating commercial and government databases, so that all electronic data could be

searched by powerful computers in the hunt for hidden patterns indicating terrorist activity. Under "Total Information Awareness" (TIA), intelligence and law enforcement officials would have "instant access to information from Internet mail and calling records to credit card and banking transactions and travel documents, without a search warrant." The name reflected the growing belief that in order to prevent another attack, the government needed to know everything taking place in the United States and globally—everything about ordinary commercial transactions and personal information, in addition to traditional intelligence related to national security and criminal activity.

Once TIA was publicly unmasked, it faced intense opposition. A wide spectrum of groups feared this would be the end of the "right to be let alone," which Justice Louis Brandeis referred

to as the "most comprehensive of rights and the right most valued by all civilized men." Specifically, groups balked at the notion that TIA would access "every American's past addresses, personal medical records, bank dealings, travel itineraries, mental health histories, credit card purchases and other so-called 'transactional' data." The Cato Institute warned that this "power to generate a comprehensive data profile on any U.S. citizen" invoked "the specter of the East German secret police and communist Cuba's block watch system."

As Bob Barr, the former CIA employee and Republican Congressman from Georgia, and the ACLU's legislative director Laura Murphy wrote jointly in 2003:

"Rarely, if ever, do groups as far apart on the ideological spectrum as the American Civil Liberties Union and Eagle Forum come down on the same side of an issue. But apparently, when it comes to preserving those core American ideals, there is rare common ground to be found."

In response to this strong popular opposition, Congress appeared to reverse course, striking TIA from the Department of Defense Appropriations Act for fiscal year 2004. But the end of the TIA project in name did not mean the end of the "total information awareness" approach. Rather, legislators secretly wrote a classified annex to the appropriations bill that preserved funding for TIA's component technologies, as long as they were transferred to other government agencies and were used for military or foreign intelligence purposes against non-U.S. citizens.

According to later reporting by the *National Journal*, research under TIA "was moved from the Pentagon's research-and-development agency to another group, which builds technologies primarily for the National Security Agency... The names of key projects were changed, apparently to conceal their identities, but their funding remained intact, often under the same contracts." Despite the official demise of TIA, its domestic intelligence-gathering apparatus continued to be expanded and enhanced under different programs and structures.

Read the rest of "When We Are All Suspects" (with complete notes on sources) online:

> [www.aclum.org/docket](http://www.aclum.org/docket)

Also check our extensive "Sunlight on Surveillance" collection of materials on domestic spying—and take action:



Listen to the ACLU Civil Liberties Minute!

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

## Candidate Statements for Election to ACLU of Massachusetts Board Class of 2013

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

### NOMINATED NEW MEMBERS' STATEMENTS

**Susan M. Akram:** I am writing to express my interest in being nominated for the ACLU Board of Directors for the term beginning in the fall of 2010. I have been associated in various ways with both the Massachusetts and the National ACLU for many years, primarily through the immigration and asylum work that I have been doing at Boston University Law School, but in other capacities as well. My collaboration with the ACLU began in 1985, when I was directing an immigration project in Los Angeles, when Paul Hoffman and Lucas Guttentag were on my advisory board. My collaboration with ACLUM since 1987 has been on civil and immigration rights discrimination in the Muslim and Arab communities; terrorism-related cases; secret evidence cases; joint law enforcement targeting of minority communities; immigration detention issues; and many other issues of mutual concern. I have been on the ACLU amicus committee and on the litigation committee. The efforts of individual advocates, lawyers and others concerned with civil and human rights like myself are strengthened in so many ways by ACLU's valuable work. I would like to make a greater contribution to the growth of this incredible institution.

**Jonathan M. Albano:** I was born and raised in Pittsfield, Massachusetts. I have practiced law at the firm of Bingham McCutchen LLP (previously Bingham, Dana & Gould) since graduating from law school in 1982. During that time, I have been fortunate enough to work on several matters with ACLUM lawyers, for whom I have the greatest respect. In my private practice, I have had the opportunity to represent civil rights plaintiffs on a pro bono basis and, in addition, to litigate many First Amendment cases. My interest in joining the Board stems from a desire to make a more significant contribution to the civil rights community in Massachusetts and to promote, at least in some small way, a respectful dialogue among lawyers and non-lawyers concerning civil rights issues.

**Elizabeth Brown:** I started working with ACLUM both because of my deep respect for its important work and because I have admired Carol Rose's passion and intelligence since we first met sixteen years ago. Having devoted a substantial part of my career to civil rights litigation, I was eager to work with ACLUM when I left my law partnership in early 2009. Since then, I've worked with both the Bill of Rights Dinner Committee and the Major Gifts Committee. I would now like to join the Board because I have gotten so much out of my work with ACLUM and want to deepen my involvement. I also believe my leadership and organizational skills will serve the Board well. As a Board Member, I would devote particular attention to development issues. Because fundraising is a personal interest of mine, I've taken professional development courses and attended fundraising workshops. I would use that knowledge to help support our talented development staff. It would be an honor to join the ACLUM Board, especially in this historic anniversary year. Thank you for your consideration.

**Myong J. Joun** is a criminal defense and civil rights lawyer in Brookline, Massachusetts. For almost ten years, at the Law Offices of Howard Friedman, P.C. in Boston, he represented victims of police misconduct involving the use of excessive force, false arrest, illegal strip-searches and wrongful convictions. He also handled employment and housing discrimination cases as well as prisoners' rights and personal injury matters. He represented individual clients and people similarly situated on a class-wide basis. In addition to these practice areas, since opening his own law office, he represents people accused of crimes in criminal court. Myong is a graduate of the University of Massachusetts and Suffolk University Law School.

Myong grew up in Brooklyn/Queens NY, came to Boston to attend college where he met his future wife Su

the first week he got here and has remained since. Myong and Su now live in Arlington with their two sons Marshall and Stuart.

**Nancy Ryan:** I stand for election to the Board of Directors of the ACLU of Massachusetts humbled by the dedication and competence of our staff, the loyal generosity of our donors at all levels and the commitment of our thousands of members to restoring the rule of law in these troubling times. Our Massachusetts ACLU has dynamic leadership at the staff and board levels that combine to deploy our precious resources prudently and creatively in the service of liberty, equality and justice. As a former board member and officer, I am eager to return to serve in this privileged role. If elected, I pledge to protect and expand our capacity to respond to today's and tomorrow's challenges, in part by helping to find and energize thousands of new members throughout Massachusetts who will carry forward our critical mission.

**Lynne Campbell Soutter:** Thank you for this opportunity to introduce myself to all ACLUM members.

After graduating from Dartmouth College and Cornell Law School, I settled with my family in Boston and began a career in litigation. As an attorney at Wilmer Hale LLP, from 2004 through May 2010, I advocated for fair hearings for Lakhkar Boumediene and five other men who had been taken from their homes in Bosnia and held by the United States without charges or access to counsel at the Guantanamo Bay Naval Base. For several years, my colleagues and I navigated a maze of military tribunals, executive orders, congressional legislation, and federal courts in order to vindicate a most basic protection against arbitrary imprisonment and tyranny—the right to seek a writ of habeas corpus. Through this work, I came to appreciate and rely on the work of the ACLU. Our clients benefitted from information unearthed by the ACLU's Freedom of Information Act cases, and the ACLUM's work to educate all of us on issues like Secrecy, Surveillance, and Sunshine is invaluable. Happily, Mr. Boumediene is now back with his family, and I am leaving Wilmer Hale LLP to spend more time with mine. These issues remain critically important though, and I look forward to collaborating with the Board, staff and members to ensure protection of liberty and fundamental rights here in Massachusetts. If elected, I will work to support the ACLUM's outstanding history and continued leadership in defense of freedom.

**Jeffrey Thomas:** BIO: As Managing Director at the Partnership for Democracy and Education, Jeffrey Thomas assists major donors and the organizations they fund shift political power to women and people of color from low income communities. Jeffrey has developed public policy advocacy programs for many non-profits. A business plan Jeffrey developed was a finalist in the Yale School of Management National Business Plan Competition for Non-profits. Jeffrey was District Director for Congresswoman Barbara Lee and a policy staffer for Senator Edward Kennedy. He studied political philosophy at St. Johns College, Oxford and earned his Bachelor of Arts in American Studies from Brandeis University.

**STATEMENT:** I was born in Mississippi within days of the assassination of Medgar Evers, as he returned from the same meeting my father had attended that night. Our family endured the indignities of those years, as Cheney, Goodman and Schwerner were murdered for trying to help black folk like my parents get the right to vote. As an adult, I have lent my shoulder to the plough of civil rights, civil liberties, poverty eradication and social justice. Previously, I helped manage an 18-attorney, non-profit law firm that provides free services to more than 1,000 individuals and training to 100 Boalt Hall law students each year.

### INCUMBENTS' STATEMENTS

**Clark Moeller:** If elected to a second term on the ACLUM Board, I bring 42 years of organizational development experience in state non-profits, local com-

munity organizations, and corporations. Currently, I serve on ACLUM's Executive Committee and co-chair the Board Governance Committee. I have also served on ACLUM's Nominating, By-laws, and Campaign Planning Task Force Committees. Before moving to Massachusetts in 2006, I was on the board of ACLU-PA and chaired its Board Governance and State Conferences Committee, and served on the Executive Search Committee. In 2005, I initiated the effort that resulted in *Moeller v. Bradford County, PA*, a church-state, first amendment case successfully concluded in 2007. In 1996, I helped found and became president of the Pennsylvania Alliance for Democracy, a state-wide coalition of progressives organized to counter the anti-democratic efforts of the religious-right wing. Before that, I provided organizational development management consulting services for 20 years to corporations.

**Jodie L. Silverman, MPA:** I have been involved formally with ACLUM since 2004 when I joined the Nominating Committee and then joined the Board of Directors in 2005. Informally, my life's work has been dedicated to social justice, freedom of speech, and civil liberties writ large. Currently, I am the Director of Health Communication Services with Health Resources in Action (formerly The Medical Foundation), a public health non-profit that seeks to create healthy communities through a variety of services, expertise and strategies with particular emphasis on underserved populations.

I have 25 years of experience in the non profit, public and private sectors, in the fields of communication, advocacy, and development. For 15 years, I worked in Washington, DC for a number of progressive U.S. Senators as well as for national non profits promoting social justice through advocacy, public education, and communication efforts.

Given ACLUM's goals as outlined in our strategic plan, and reflecting on my expertise and interest, I can best serve ACLUM through communication strategies and membership outreach as well as donor cultivation.

2010

ACLU of  
Massachusetts  
Board Ballot

The ACLU of Massachusetts annual meeting where new board members are announced will be held on Monday, June 28, 2010. 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 Friday, May 28, 2010.

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

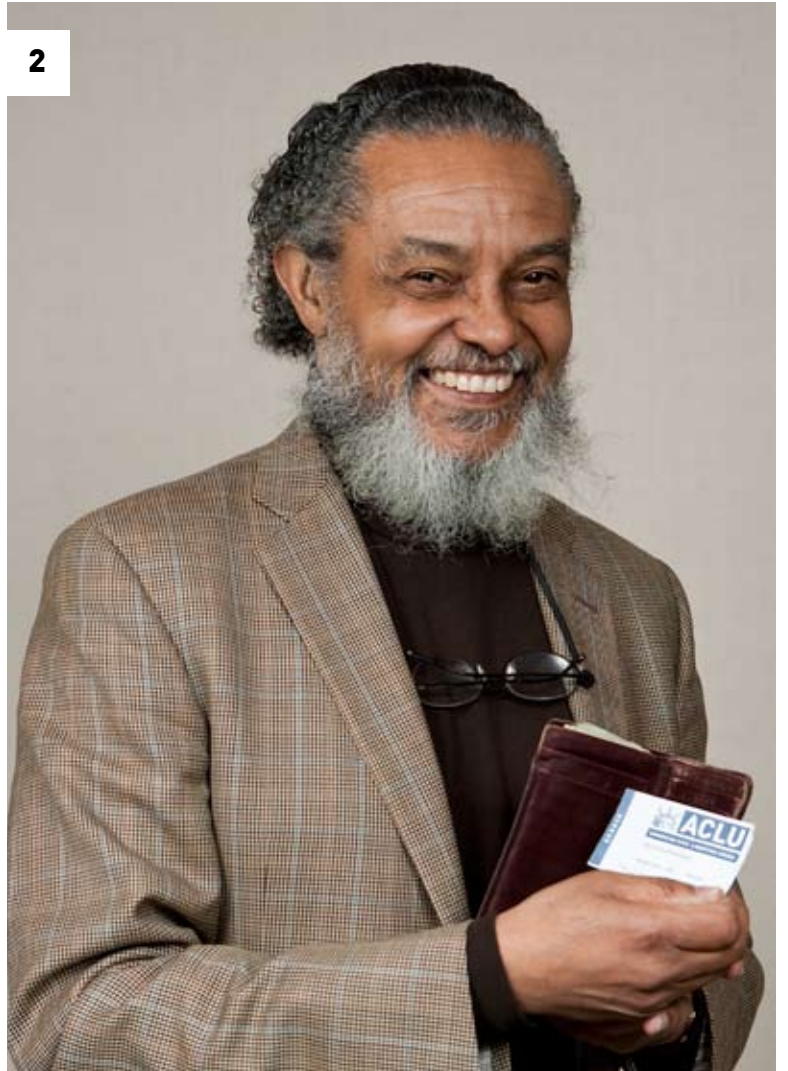
### Vote for 9 or fewer

- Susan M. Akram  
  Jonathan M. Albano  
  Elizabeth Brown  
  Myong J. Joun  
  Nancy Ryan  
  Lynne Campbell Soutter  
  Jeffrey Thomas  
  Clark Moeller  
  Jodie L. Silverman, MPA

## Faces of the ACLU



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1, 2 / ACLU board members Marjorie Suisman and State Rep. Byron Rushing showed their card-carrying support at the ACLU of Massachusetts 2010 Statewide Conference in February.

3, 4 / Maheen Junaid, an attorney and former civil rights and legal coordinator for the Muslim American Society of Boston, and attorney Hector Pineiro of Worcester were among more than 30 expert speakers at our 2010 Statewide Conference.

5 / Author and *New York Times* columnist Linda Greenhouse (second from left) spoke at a March 25th Amicus Club luncheon. She is pictured with (left to right) former ACLU of Massachusetts legislative director Norma Shapiro, former president and CEO of the Planned Parenthood League of Massachusetts Nicki Nichols Gamble, former ACLU of Massachusetts executive director John Roberts, ACLU of Massachusetts legal director John Reinstein, and Judge Nancy Gertner.

6/ Recruit a new member and get a free "Sunlight on Surveillance" t-shirt! See [www.aclum.org/newmember](http://www.aclum.org/newmember) for details.

7/ ACLU of Massachusetts 2010 Youth Activism Award winners Melissa Aybar of Boston Latin Academy and Tatiana Cindy Cortes of New Mission High School in Boston received the honor—which comes with a \$1,000 scholarship—from former ACLU of Massachusetts executive director John Roberts (on right). Award-winner Barbara Elizabeth Morrison of Westford Academy was unable to attend the ceremony. The ACLU of Massachusetts awarded scholarships to the students based on their civil liberties activism in high school, in the hopes of encouraging continued activism on these critical issues in college—and beyond!



7