

ACLU OF MASSACHUSETTS
2013 Bill of Rights Dinner

May 20, 2013

Westin Copley Place
10 Huntington Ave | Boston, MA

Reception 5:30 | Dinner 6:30 PM
Standard Ticket Price: \$180

HONORING
Lilly Ledbetter with the
2013 Roger Baldwin Award

FEATURING
Kathleen Turner performing as Molly Ivins
in "Red Hot Patriot"... and more!

Purchase tickets now at www.aclum.org/dinner
For more information contact Meaghan Giangregorio
at 617-482-3170 x339 or mgiangregorio@aclum.org.



Supreme Judicial Court rules social marijuana sharing is not criminal

The Massachusetts Supreme Judicial Court ruled in early April that passing a joint or otherwise socially sharing small amounts of marijuana does not amount to criminal drug distribution.

Despite approval by Massachusetts voters of a ballot measure in 2008 that decriminalized possession of up to one ounce of marijuana, unwarranted investigations of marijuana possession have continued. The Commonwealth argued that sharing marijuana is criminal "distribution," carrying a potentially long jail term, even when no money changes hands.

Last November, the ACLU of Massachusetts and national ACLU, with cooperating attorney Alex Philipson, challenged the Commonwealth's interpretation, submitting a friend-of-the-court brief in *Commonwealth v. Pacheco*, one of the cases the state's highest court decided on April 5. The ACLU challenged the Commonwealth's claim that sharing small amounts of marijuana, which voters made non-criminal, could still be considered a crime, and the Court's rulings were consistent with the ACLU's position.

[Read more at aclum.org/marijuana_sharing](http://aclum.org/marijuana_sharing)



Tech leaders Paul Sagan (left) and Joshua Boger (right), with executive director Carol Rose, at the March announcement of their lead gifts for the ACLU of Massachusetts Technology for Liberty & Justice for All initiative.

ACLU of Massachusetts announces Technology for Liberty & Justice for All initiative

The ACLU Foundation of Massachusetts announced in March that it is launching a multi-million dollar Technology for Liberty & Justice for All initiative backed by local science and technology industry leaders Joshua Boger and Paul Sagan. Together, Sagan and Boger are making a lead investment of \$1 million, and are offering an additional challenge match of up to \$1 million more to encourage new supporters, for a total of up to \$2 million in initial funding to launch the related projects.

The initiative will enable the ACLU of Massachusetts to bring business leaders and entrepreneurs together with civil liberties advocates and policy makers, to ensure that the law keeps pace with rapidly-changing technologies and to model new ways for technology to be used to safeguard equal justice for all.

"Massachusetts has always been a center of liberty, education and innovation, so it makes sense that the Commonwealth also should help lead the nation in defending civil rights and civil liberties in the Internet era," said Mr. Sagan, who is Executive Vice Chairman of Akamai Technologies, the Cambridge-based Internet services company.

[Continues on p. 6](#)

U.S. Supreme Court considers ACLU challenge to "Defense of Marriage Act" (DOMA)

On March 27, the U.S. Supreme Court heard arguments in *Windsor v. United States*, which challenges the federal "Defense of Marriage Act" (DOMA) that defines marriage as between one man and one woman.

The ACLU and law firm Paul Weiss represent Edie Windsor, who had to pay more than \$363,000 in federal estate taxes after her spouse Thea Spyer died in 2009. The couple spent 44 years together and legally married in New York. If Edie had been married to a man, she would not have had to pay any estate taxes after Thea's death.

A decision in the historic case is expected in June.

This case is one of an unprecedented six cases before the U.S. Supreme Court this term in which the ACLU serves as counsel or co-counsel. See page 4 for information about the other cases before the Supreme Court.

[Show your support for Edie Windsor and the freedom to marry by marching with the ACLU in Pride celebrations around the state! See page 5 for dates and locations.](#)



ACLU of Massachusetts staff attorney Sarah Wunsch addresses hundreds in Boston in support of marriage equality the day before the U.S. Supreme Court heard the ACLU challenge to DOMA and the challenge to California's Prop 8.

BOSTON MARATHON

Dear Friends — Press time for this newsletter was one day after the Boston Marathon bombings. The ACLU of Massachusetts extends our deep concern and condolences to its victims and to their families. We thank the first responders, medical professionals and ordinary people who reacted with extraordinary bravery and skill to this terrible attack. Especially on Patriots Day, which honors the founding of our nation and its democratic ideals, their courage inspires and reminds us that our nation is strongest when we are led by principles that unite our communities and keep us both safe and free.

Inside

- 2—Legislative agenda for privacy
- 3—Executive Director's letter
- 4—ACLU work in Massachusetts and before the Supreme Court
- 6—ACLU voices: Marriage equality
- 7—Board election
- 8—Faces of the ACLU



Kim V. Marrkand
ACLU OF MASSACHUSETTS, PRESIDENT

Ronald M. Ansin
ACLU FOUNDATION OF MASSACHUSETTS, CHAIR

Carol Rose
EXECUTIVE DIRECTOR

Legal Staff

Matthew Segal
LEGAL DIRECTOR

Sarah Wunsch
STAFF ATTORNEY

John Reinstein
SENIOR LEGAL COUNSEL

William Newman
DIRECTOR, WESTERN MASSACHUSETTS LEGAL OFFICE

Laura Rótolo
IMMIGRATION AND FOIA COUNSEL

Susan Corcoran
INTAKE ATTORNEY

AnaMaria Gioia
LEGAL ASSISTANT

Legislative Staff

Ann Lambert
LEGISLATIVE DIRECTOR

Gavi Wolfe
LEGISLATIVE COUNSEL

Public Education Staff

Nancy Murray
EDUCATION DIRECTOR

Kade Crockford
TECHNOLOGY FOR LIBERTY PROGRAM DIRECTOR

Field Staff

Whitney Taylor
FIELD DIRECTOR

Christopher Robarge
CENTRAL MASSACHUSETTS FIELD COORDINATOR

Development & Membership Staff

Steve Hurley
DEVELOPMENT DIRECTOR

Bliss Austin Spooner
MAJOR GIFTS OFFICER

Mary Jacobson
DEVELOPMENT OPERATIONS MANAGER

Meaghan Giangregorio
EVENTS MANAGER

Communications Staff

Christopher Ott
COMMUNICATIONS DIRECTOR

Raquel Ronzone
COMMUNICATIONS CONTENT SPECIALIST

Administration & Finance Staff

Shirley Lai
ADMINISTRATION & FINANCE DIRECTOR

Mahtowin Munro
EXECUTIVE ASSISTANT

Yeji Hong
IT & OFFICE MANAGER

The Docket is published twice a year by the American Civil Liberties Union of Massachusetts.

211 Congress Street, Boston, MA 02110-2410
Tel. (617) 482-3170, www.aclum.org

LEGISLATIVE AGENDA

Protecting privacy in the clouds, and in the cloud

We have a bold privacy agenda in the 2013–2015 state legislative session.

Let's start with a couple of basic premises. Massachusetts residents shouldn't have to worry about: (a) spying eyes in the sky; or (b) secret snooping into our phone, email and internet use.

If government officials want to monitor our activities, they should show they have probable cause to believe we're involved in criminal activity, and get a warrant. There you have it. That's the core of the ACLU privacy agenda on Beacon Hill.

Flying the Not-So-Friendly Skies

The *Drone Privacy Act* (Senate Bill 1664/House Bill 1357—co-sponsored by Sen. Robert Hedlund, Weymouth and Rep. Colleen Garry, Dracut) would deal with the troubling reality that domestic drones are cheap and tempting next-generation tools for local law enforcement. They're coming to Massachusetts sooner than most of us are ready to imagine, as evidenced by reports in *The Boston Globe* that a consortium of Boston-area police departments called MetroLEC has applied to the Federal Aviation Administration for permission to test-pilot a drone. We're not talking about the Predator or Reaper drones infamous for targeted killing overseas, but small flying surveillance machines that can be tricked out with the latest in spying technology—from regular and infrared cameras to facial recognition software and cell phone "sniffers" that Hoover up data from all cell phones in the vicinity.

Whatever the legitimate beneficial uses of drones may be (think, perhaps, of emergency wilderness rescues or surveys of environmental damage), secret warrantless surveillance of unsuspecting residents is not one of them. This ACLU-backed bill would protect our privacy by setting clear boundaries for the acquisition and use of drones in the Commonwealth, as well as for handling any data they collect. And, much as it galls us to have to spell this out in legislation, it would ban the use of weaponized drones in the Bay State.

Your (Electronic) Life is an Open Book

Unfortunately, the privacy perils we face come not only from futuristic surveillance threats, but also from gadgetry we've all come to love and trust—our cell phones, tablets, and personal computers. If your best friend is an electronic device, you're not alone. For many of us, we're literally attached at the hip. And wherever we go, our phone company knows. They also know who we call, when, and for how long. When we log into Gmail, Google knows with whom we correspond. Then, when the government politely requests (or demands) this private information from phone and internet providers

for reasons good, bad, or non-existent, the government readily knows it too—without meaningful judicial oversight, if any at all.

We at the ACLU object. The central message of the Electronic Privacy Act (Senate Bill 796/House Bill 1684, co-sponsored by Sen. Karen Spilka, Ashland and Rep. Marty Walz, Boston) is: "Not without a warrant!" This critical piece of legislation would require police to obtain a probable cause warrant to access personal information derived from telecom customers' cell phone and internet use.

Most people are shocked to know that this basic protection isn't already the law. Sadly, however, as we hurtle faster and faster through the digital age, our statutes have not been keeping up. Today, telephone and internet service providers keep records of our calls, texts

and emails, whom we communicate with, and where we go whenever our phones and laptops are on. The companies may think of this sensitive personal information as mere "usage data," but it actually reveals an awful lot about our associations, interests and habits. If law enforcement asks for this information, companies can—and do—simply give it to them, without a warrant and without telling us, their customers. Moreover, because of a huge gap in federal law, they'll even turn over the contents of "stored" emails—unsent email in draft form or email that we've sent or received more than 180 days ago. That's not right, and it's not

what ordinary Americans expect or deserve. Our private information should stay private unless police have probable cause to believe we're involved in criminal activity.

The ACLU is bringing a direct message to Beacon Hill. Warrantless surveillance, whether by drone or by phone, is an affront to the privacy principles at the heart of the Fourth Amendment.

Encouragingly, it seems to be a message that legislators may be ready to hear. In January, when we filed a package of legislation to protect our privacy on multiple fronts (see aclum.org/privacy_agenda for descriptions of all five bills), it struck a chord across the political spectrum. Democrats, Republicans and independents, progressives, conservatives and those in between—they all signed onto these bills in record numbers. Indeed, a full half of the members of the House and more than a third of the Senate co-sponsored some piece of this critical legislation.

We've got a long way to go, and privacy doesn't protect itself. But, with your help, even in this age of ever-present technology, we will maintain and enhance this most basic of freedoms, what Justice Louis Brandeis famously called "the right to be let alone."



[See \[aclum.org/privacy_agenda\]\(http://aclum.org/privacy_agenda\) for more](http://aclum.org/privacy_agenda)

What can we gain or lose from immigration reform?

After years of failed efforts and a lack of political will, comprehensive immigration reform is back on the table in the U.S. Congress. Many attribute this new momentum to the remarkable turnout of Latinos in the last presidential elections. One in ten voters in 2012 was Latino, and they voted overwhelmingly for President Obama.

On January 28, 2013, a bipartisan group of eight Senators announced a mixed bag of principles for immigration reform. They include a path to citizenship for the more than 11 million undocumented immigrants in the United States, contingent upon securing the border with Mexico and tracking immigrants and visitors who enter and leave the country. They also include reducing visa backlogs, the creation of a guest worker program, an expanded employment verification system, and a fast track for young immigrants who came to the U.S. as children.

The ACLU continues to advocate for just and humane immigration reform. Specifically, we believe any reform must include a path to citizenship for aspiring Americans, and we warn that it should not further militarize the border or create a national ID system or increase measures that harm fundamental privacy rights. Mandating the current pilot employee verification system, known as E-Verify, for all employers could result in hundreds of thousands of Americans wrongfully being denied jobs because of errors in the system, and could lead to further discrimination against those perceived to look or sound "foreign." Instead, immigration reform should increase due process and fundamental rights for all.

For updates on what is happening on immigration reform, and how the ACLU is helping to shape this historic moment, visit aclum.org/immigration_reform.

FROM THE EXECUTIVE DIRECTOR

The ACLU and the American Dream

By Carol Rose

In his second inaugural address, President Barack Obama traced America's pursuit of equal rights from the Declaration of Independence to the early suffragettes at Seneca Falls, to the civil rights marchers in Selma, and to LGBTQ activists at Stonewall. In so doing, he appealed to the core American value of equal justice under the law.

The promise of equal rights rings especially true for ACLU members this year, as the U.S. Supreme Court takes up the case of *Windsor v. United States*, the ACLU's challenge to the pernicious and discriminatory "Defense of Marriage Act."

By defending same-sex marriage, the ACLU continues its historic tradition of securing equal rights for all. What makes the ACLU unique, however, is the organization's willingness to defend the rights of often unpopular groups and individuals long before it is politically popular to do so and, indeed, often in the face of widespread opposition. It was the ACLU that, in 1923, defended the right of women to advocate for birth control on the Boston Common. It was the ACLU that, in 1936, defended the right to produce a lesbian-themed play called "The Children's Hour." And it was the ACLU that in 1967 helped to establish the right to interracial marriage in the beautifully named case *Loving v. Virginia*.

Given this rich history, all ACLU members can be proud that we once again are in the Supreme Court and at the forefront of history in the Windsor case, defending the right of same-sex couples to enjoy the promise of life, liberty and the pursuit of happiness without discrimination by the federal government.

And yet... much work remains if America is to realize the full promise of equality under the law.

Women in Massachusetts still make on average only 79 cents for every \$1 earned by a man in a similar job, according to the Massachusetts Commission on the Status of Women. This translates into \$700,000 in lost wages for full-time female employees with a high school degree over their lifetime, and up to \$2 million lost for women with graduate degrees. Imagine what that means for a woman's ability to buy a house, support her family or have a comfortable retirement. Passage of the Lilly Ledbetter Fair Pay Act helped to address the pay gap between men and women, but clearly loopholes remain that the ACLU and others are working to close. (Note: I'm thrilled that we will be honoring Lilly Ledbetter at our annual Bill of Rights dinner on May 20—be sure to join

us, aclum.org/dinner).

Meanwhile, the right of women to exercise autonomy over their bodies and, thus, their health and economic futures, increasingly is under attack by those who seek to deny women safe access to contraceptives and abortions. Poor women and women of color continue to bear the brunt of this and all forms of gender discrimination. They must be the focus of the ACLU's gender equality work going forward.

Similarly, while same-sex marriage is legal in Massachusetts and eight other states, the ACLU will continue to advocate for equal rights until people in all 50 states enjoy marriage equality. Here in Massachusetts, we also have remaining work to ensure equal access to public accommodations for all, including transgender residents of our great Commonwealth. Finally, the quest for LGBTQ quality must not end with equal rights for well-heeled same-sex couples. The ACLU must continue to champion equality issues that uniquely affect LGBTQ people of color, as well as those who are poor, disabled, undocumented or otherwise targets of discrimination.

Finally, the ACLU's mission—and America's obligation—to realize equality of opportunity regardless of race and ethnicity must be renewed. Racial disparities in education, housing, employment, policing and criminal

prosecutions persist in Massachusetts and around the nation. The disparities are particularly shocking with regard to school expulsion and drug sentences. In Massachusetts, for example, black male students are expelled at six times the rate of white male students. Likewise, 72% of people convicted of drug offenses that carry a mandatory sentence are people of color, although people of color

comprise only 19% of our population and drug use is similar among all racial groups. Clearly, it is time to redirect scarce public resources away from over-incarceration and instead build healthy communities by making strategic investments in education and jobs, particularly in traditionally underserved communities.

The challenges before us are formidable, but the ACLU in its 93-year history has never shied away from a challenge. Moreover, the opportunities to shape our Commonwealth and our nation have never been greater. This is our time, our generation's chance to make a difference. Let us seize the day to ensure that our own and future generations will live in a society in which each human being can be full a participant in the American dream—with liberty and justice for all.

\$700,000 =
the amount that earning 79 cents for every \$1 earned by a man in a similar job translates into in lost lifetime wages for a full-time female employee in Massachusetts with a high school diploma.

ANTHONY LEWIS: IN MEMORIAM



Anthony Lewis with executive director Carol Rose (left) and his wife, former Chief Justice Margaret Marshall of the Massachusetts Supreme Judicial Court (right), at the ACLU of Massachusetts Bill of Rights Dinner in 2011. Photo by Marilyn Humphries.

The world lost a voice of courage and clarity when Anthony Lewis (1927-2013) died March 25. He was our nation's pre-eminent expert and explainer of the Constitution and Bill of Rights. By telling human stories of personal courage and the law, Tony Lewis inspired me and countless other journalists, lawyers, and ordinary people to embrace what it means—and what it takes—to be a free human being.

I first met Tony when I was a young reporter at *The New York Times*, and he remained a mentor and teacher when I later became a civil liberties lawyer at the ACLU. He taught me to love the law, to strive for clear prose, and to realize that courage is essential to a free society.

Shaped by his early reporting experiences covering government loyalty programs during the McCarthy period, the civil rights movement, and the U.S. Supreme Court, Tony combined a reporter's knack for story-telling with first-hand knowledge of human suffering in the face of injustice. He used narrative writing to teach Americans the fundamental concepts that keep our nation safe and free: freedom of speech and the press, due process and the right to counsel, and equal rights under the law.

He knew more about the U.S. Constitution and Bill of Rights than any lawyer, and wrote about them with more eloquence than any other writer. His books became required reading for generations of Americans, particularly his 1964 book, *Gideon's Trumpet*. In it, Tony told the true-life story of Clarence Earl Gideon, a poor man who filed a petition on his own behalf demanding his constitutional right to a lawyer.

Continues on p. 6



ACLU OF MASSACHUSETTS 2013 Bill of Rights Dinner

May 20, 2013

Westin Copley Place | Boston, MA

FEATURING

Kathleen Turner performing an excerpt from *Red Hot Patriot: The Kick-Ass Wit of Molly Ivins*

HONORING

Lilly Ledbetter with the 2013 Roger Baldwin Award

For more information and to purchase tickets please visit www.aclum.org/dinner.



ACLU IN THE U.S. SUPREME COURT

This term, the ACLU is direct counsel or co-counsel in an unprecedented six cases before the U.S. Supreme Court—and has submitted briefs in well over a dozen others—covering a range of topics from voting rights to marriage equality. We've provided basic descriptions here about what's at issue in each case.

[Learn more at aclu.org/scotus](http://aclu.org/scotus)

Amnesty et al. v. Clapper

Whether a federal statute that broadly expanded the government's surveillance powers can be challenged by lawyers, journalists and human rights organizations who face a reasonable likelihood that their international communications will be monitored under the statute and have taken prudent (and, in some cases, ethically compelled) steps to safeguard against that risk

In a 5-4 ruling handed down on February 26, 2013, the Supreme Court held that the ACLU plaintiffs don't have standing to challenge the constitutionality of the warrantless wiretapping program.

Association for Molecular Pathology v. Myriad Genetics

Whether human genes can be patented

In May 2009, the ACLU and the Public Patent Foundation filed a lawsuit charging that patents on two human genes associated with breast and ovarian cancer are unconstitutional and invalid.

Missouri v. McNeely

Whether every person arrested for drunk driving can be forced to submit to a blood test without consent and without a warrant

The ACLU is representing Tyler McNeely in a case involving Missouri's claim to a categorical exemption to the warrant requirement in all DWI cases.

Arizona v. InterTribal Council of Arizona

Whether Arizona may require proof of citizenship before registering to vote in federal elections when federal law does not

The ACLU challenged Proposition 200 as inconsistent with federal law.

Windsor v. United States

Whether the "Defense of Marriage Act" violates equal protection by denying married gay couples recognition under federal law

The ACLU represents widow Edie Windsor, who had to pay more than \$363,000 in federal estate taxes after her spouse Thea Spyer died in 2009. The couple spent 44 years together and legally married in New York. If Edie had been married to a man, she would not have had to pay any estate taxes after Thea's death.

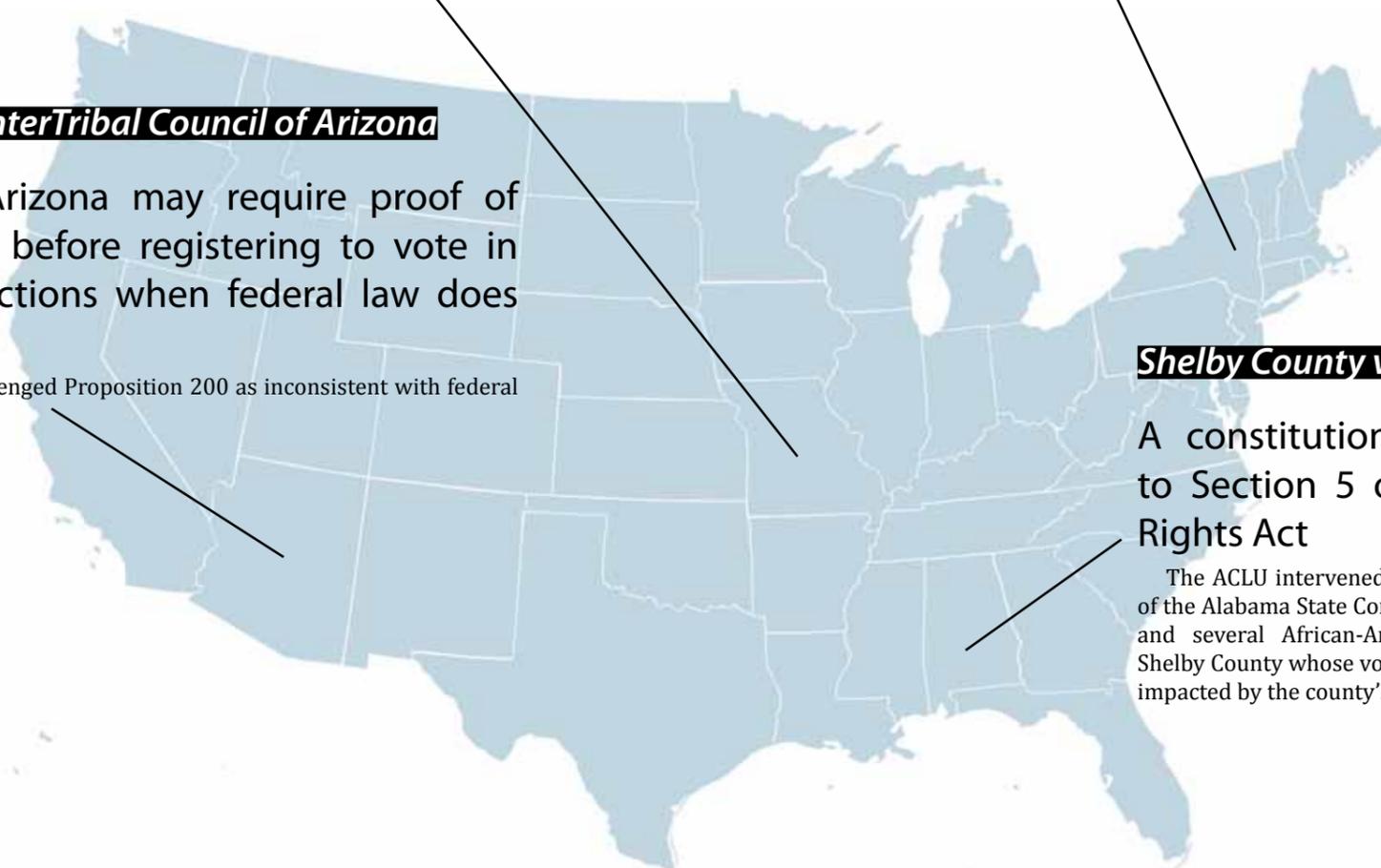


ACLU client Edie Windsor—flanked by James Esseks (left), head of the national ACLU LGBT Rights Project, and national ACLU executive director Anthony Romero—speaks to reporters after arguments before the Supreme Court in her historic challenge to DOMA.

Shelby County v. Holder

A constitutional challenge to Section 5 of the Voting Rights Act

The ACLU intervened in the case on behalf of the Alabama State Conference of the NAACP and several African-American residents of Shelby County whose voting rights are directly impacted by the county's challenge.



¿Hablas español? Mantente al día de los temas que afectan a tus derechos. Lee noticias y análisis sobre tus derechos civiles y el trabajo de la ACLU en miaclu.org.

Manda un texto con la palabra "UNIDOS" al 74700 para recibir noticias importantes sobre la reforma migratoria y otros derechos que te afectan.

Read about issues that affect the Latino community in Spanish! Go to miaclu.org for the latest on civil rights and the work of the ACLU. Then, text the word "UNIDOS" to 74700 to receive important updates on Latino issues the ACLU is working on.

ACLU ACROSS THE COMMONWEALTH**SHIRLEY****ACLU sues on behalf of town official banned from public buildings for statements made during finance meeting**

In February, the ACLU of Massachusetts filed a civil rights lawsuit in federal court on behalf of Shirley public official Robert Schuler, who was banned from town property for remarks he made during a meeting of the Financial Committee in May 2011. The suit alleges that the ban is retaliation for Schuler's public criticisms of the Shirley Selectmen, and that it deprives him of constitutionally protected rights to free speech, to petition the government, and to due process.

♥ Salute ACLU client Edie Windsor in her challenge to the "Defense of Marriage" Act before the Supreme Court by joining the ACLU at Pride celebrations across Massachusetts!

For details, go to aclum.org/events

♥ Northampton Pride, May 4

♥ Worcester Pride, Sept. 7

♥ Springfield Pride Week, May 30–June 5

NORTHAMPTON**ACLU supports school's performance of gay-friendly play on Book of Genesis**

Criticism and protest followed the Pioneer Valley Performing Arts Charter School's announcement that the school would perform Paul Rudnick's "The Most Fabulous Story Ever Told." William Newman, director of the ACLU of Massachusetts' Western Legal Office, defended the school, stating, "The highest function of art is to make people think and talk and consider and be challenged. This play seems to fill the aspirations and goals of art."

NEW BEDFORD**Civil rights groups seek reopening of inquiry into shooting death of teen by New Bedford police**

In January, the ACLU of Massachusetts, along with three other civil rights organizations, released a statement on the fatal shooting of teenager Malcolm Gracia by New Bedford police officers, requesting a judicial inquest from Attorney General Martha Coakley. The four organizations also called for an investigation by the Civil Rights Division into whether New Bedford police officers lawfully implement the Department's "meet-and-greet" program in their encounters with minority youth and a review of the firearms training received by police officers.

WAKEFIELD**State Attorney General rejects Wakefield ban on medical marijuana treatment centers**

Following approval of "An Act for the Humanitarian Medical Use of Marijuana" (Question 3) by 63 percent of Massachusetts voters on November 6, 2012, Wakefield's Fall Annual Town Meeting on November 15 voted to ban medical marijuana treatment centers from the town. In February, the ACLU of Massachusetts wrote the Attorney General to urge disapproval of the Wakefield bylaw. The next month, the Attorney General's Office found that the ban was unlawful.

♥ North Shore Pride (Salem), June 29

♥ Boston Pride, June 8

JAMAICA PLAIN**Supreme Judicial Court to hear arguments on drug lab cases in May**

The ACLU of Massachusetts is working to address the injustices stemming from the state drug lab scandal, which may have tainted evidence in more than 190,000 cases.

BOSTON**ACLU says Boston College cannot discipline students providing condoms**

The ACLU of Massachusetts spoke out against Boston College's threat to discipline students who were providing condoms and sexual health information from their "safe space" dorm rooms. Staff attorney Sarah Wunsch stated, "By threatening these students, the College is violating the Massachusetts Civil Rights Act which prohibits interference with rights by means of threats, intimidation or coercion."

Connect with us online!



aclum.org/facebook



aclum.org/twitter



aclum.org/podcast

Do you live in a legislative power center?

At the State House, as in George Orwell's *Animal Farm*, all legislators are equal, but some are more equal than others. The truth is, Speaker of the House Robert DeLeo and Senate President Therese Murray are the leadership of our legislative democracy. Which means if you live in their districts, you could have outsized influence, too! If you're a resident of Winthrop or Revere (Speaker DeLeo) or anywhere between Plymouth and Falmouth (Senate President Murray), we'd love to talk with you about what you can do to advance civil liberties and civil rights in Massachusetts. Send an email to ACLU of Massachusetts field director wtaylor@aclum.org so we can get the conversation started.

ACLU VOICES

The Supreme Court should seize this opportunity to make history

by Bryan Simmons and Ralph Vettors

The United States Supreme Court will issue rulings in two historic marriage equality cases in June, and this has special significance for us and other same-sex married couples in Massachusetts whose lives will be directly affected by the ruling. As an interracial couple, it is even more thrilling to realize that this is the second time in our lifetimes that the Supreme Court has had an opportunity to strike down pernicious discriminatory marriage laws.

The last historic U.S. Supreme Court equal marriage case was in 1967, when the court struck down state laws against interracial marriage in the landmark case of *Loving v. Virginia*. That case was brought by Mildred Loving, an African-American woman, and her husband, Richard Loving, a white man, who had been sentenced to prison for marrying. When Mildred wrote a letter of protest to then-Attorney General Robert F. Kennedy, he referred her to the American Civil Liberties Union (ACLU), setting in motion a series of lawsuits that ultimately reached the highest court in the land.

This year the ACLU is once again before the Supreme Court on behalf of equal marriage rights. The case, *Windsor v. United States*, challenges the misnamed "Defense of Marriage Act," which requires the federal government to discriminate against same-sex couples who are legally married under state law, as in Massachusetts.

Eddie Windsor was forced to pay tens of thousands of dollars in financially crippling estate taxes after her beloved wife Thea Spyer died in 2009. Eddie and Thea were together for over forty years and were finally able to legally marry two years before Thea's death.

Eddie was a wonderful wife. She nursed Thea through her final days with multiple sclerosis. So it was a particularly cruel blow to Eddie when her own government refused to respect her marriage contract as she had done. After all, Eddie would not have had to pay any estate taxes after Thea's death if she had been married to a man.

We share similar concerns. We worry what might happen if one of us ever needed urgent medical care while traveling in a state that does not recognize our marriage. The rights that we want each other to have during an

you go on vacation or travel, and the federal government should recognize the same-sex marriages performed by Massachusetts the same way it recognizes the opposite-sex marriages performed by every other state.

Such discrimination is fundamentally unfair. Legally married same-sex couples in Massachusetts and elsewhere pay taxes, vote, serve in the military, and run businesses. We work hard and pay into the same system as everyone else. We take on the responsibility and commitment of marriage, just as straight couples do. It's simply wrong for the federal government to discriminate against same-sex couples now, just as years ago it was wrong for the government to discriminate against interracial couples.

The Supreme Court also heard a second marriage case last month, a challenge to California's "Prop 8" state ban on same-sex marriages, which violates the federal Constitution's guarantee of equal protection under the law. This case is even more akin to the *Loving* case, because it asks the Court to declare discriminatory state laws on same-sex marriage to be unconstitutional throughout the land.

However the court rules, it's clear that marriage discrimination against same-sex couples will be struck down in our lifetimes—if not by the courts, then by the growing number of Americans who oppose bigotry and prejudice. But it would be truly inspirational if our Supreme Court—as the highest court in the land—would once again seize the historic moment to simply proclaim: equal justice for all.

Bryan Simmons is a marketing and communications executive and ACLU of Massachusetts board member. Ralph Vettors is a Boston-based pediatrician whose work is focused on underserved teen populations. They met at Harvard undergraduates in the early 1980s and were legally married in Somerville in 2004. This piece originally appeared in the Quincy Patriot Ledger



Bryan Simmons



Ralph Vettors

As an interracial couple, it is thrilling to realize that this is the second time in our lifetimes that the Supreme Court has had an opportunity to strike down pernicious discriminatory marriage laws.

emergency, and the responsibility we feel for each other, might not be respected, the way they would be for opposite-sex couples. We also realize how differently the federal government treats us every time we pay our taxes: we must file married returns in Massachusetts but single returns federally.

As wonderful as it is to be legally married in Massachusetts, we and other lesbian and gay couples confront the strange reality of being married legally at home and in a few other states, while not in others. But we understand—as most people understand—that when you're married, you're married. This shouldn't change when

Technology for Liberty and Justice for All

Continued from p. 1

"This initiative seeks to engage the business and technology communities in developing systems, policies and programs for protecting and promoting liberty and democracy—and to share those advances nationwide through the ACLU network."

Dr. Boger, who founded Vertex Pharmaceuticals and led successful efforts to find a cure for hepatitis C and breakthrough treatment for cystic fibrosis, noted, "The Bill of Rights is the best of all possible economic development plans. Businesses and society in general need ground rules to make it clear that opportunity is open for all, and that the power of the majority can never be used to cut some of us out of the herd. The beauty of the Bill of Rights is its protection for all of us—all 100% of us—but we must work to ensure that this safeguard remains in place in the face of rapid developments in science and technology that give government and businesses unprecedented new capabilities."

Carol Rose, executive director of the ACLU Foundation of Massachusetts, announced the new initiative, noting, "The ACLU of Massachusetts is excited to work with both

progressive business leaders and traditionally underserved communities to pilot new ways to empower all people, particularly those among us who are targets of oppression and discrimination, and to ensure that new technologies are used to protect rather than limit liberty."

The initiative will utilize an "integrated advocacy" approach that combines litigation, public education, online and traditional media, and field mobilization to build a broad constituency for privacy and equal justice, including scientists and technologists, doctors and lawyers, labor and business leaders, students and teachers, writers and artists, academics and activists—around issues of privacy, liberty and equality.

"We are grateful to Joshua and Paul for giving the ACLU this opportunity to innovate new approaches to protecting civil rights and civil liberties," said Rose. "We hope their leadership gifts and matching challenge will inspire other leaders in Massachusetts and nationwide to join this effort, to ensure that the 21st century is a time in which we expand the frontiers of liberty—as well as science and technology."

Anthony Lewis (1927–2013)

Continued from p. 3

The book chronicles Gideon's case up to the U.S. Supreme Court, resulting in Gideon's exoneration and a victory for the right to counsel in criminal cases. On this 50th anniversary of the Gideon decision, the importance of that ruling—which Tony taught us in *Gideon's Trumpet*—continues to inform and inspire today's efforts to extend the right to counsel to civil and immigration cases.

Another of Tony's books, *Make No Law: The Sullivan Case and the First Amendment*, told the story of freedom of the press and the civil rights movement. Capturing the human drama, fear and courage of the time, it told the story of how segregationists tried to silence press coverage of the struggle for freedom in the South. In Lewis' retelling, a courageous Supreme Court saved both the free press and the civil rights movement.

Courageous judges were a theme in Tony's writing, and in his life, as evidenced by his marriage to Margaret Marshall, a long-time anti-apartheid activist who later became the Chief Justice of the Supreme Judicial Court of Massachusetts. In his final book, *Freedom for the Thought We Hate*, Tony concludes with what can only be read as an ode to Justice Marshall, who in 2004 authored the historic *Goodridge* decision extending the freedom to marry to same-sex couples in Massachusetts:

"The courage required in a free society is not alone of those who believe in change, but of journalists and other shapers of opinion. And, not least, of judges," he wrote. "Many of the great advances in the quality—the decency—of American society were initiated by judges: on racial justice, on respect for the equal humanity of women and homosexuals, on freedom of speech itself. Every one of such steps exposed judges to bitter words and, sometimes, physical danger. 'We are very quiet there,' Holmes said of the Supreme Court, 'but it is the quiet of a storm center.'"

Tony Lewis' call for courageous jurists has never felt more essential than this year as the U.S. Supreme Court considers two historic equal-marriage cases. I can't help but imagine how helpful it would be to hear Tony's perspective on the cases and the Court, and I am bereft that he is gone.

Fortunately, his words live on in the extraordinary body of writing he bequeathed to us and to future generations. Perhaps the wisdom of Anthony Lewis will inspire today's Supreme Court justices, as it does so many of us, to demonstrate the courage that the world needs if we are to realize freedom and justice for all.

—Carol Rose, ACLU of Massachusetts executive director

BOARD OF DIRECTORS

Candidate Statements for Election to ACLU of Massachusetts Board Class of 2016



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

CANDIDATES' STATEMENTS

Shannon Erwin is being nominated for a first term on the ACLUM Board. Since 2011, she has worked with the Massachusetts Immigrant and Refugee Advocacy Coalition (MIRA) as the state policy director, leading MIRA's advocacy to protect immigrants' rights in Massachusetts. She focuses on immigrant eligibility for, and access to, health care, education from pre-K to college, driver's licenses, housing, cash assistance, other public benefits and services. She received a J.D. from Harvard Law School and a B.F.A. in printmaking from the University of Pennsylvania. Prior to joining MIRA, she worked with the Immigrants Protection Project of Massachusetts Law Reform Institute, interned with a Palestinian NGO in the West Bank, and volunteered with the ACLU of Pennsylvania. Outside of MIRA, Shannon belongs to the New England Muslim Bar Association and served as President of its Board of Directors from 2011-2012. She comments: "Having had the pleasure of working with several stellar ACLUM attorneys and advocates on various issues, I would consider it a privilege to serve on ACLUM's Board and to help promote and support its work in any way possible."

Fran Fajana is being nominated for a first term on the ACLUM Board. She directs the racial equity project at Massachusetts Law Reform Institute. Upon joining MLRI in 2001, Fran gained admiration for ACLUM's commitment to criminal justice as she learned about the critical civil liberties cases several of her colleagues were co-counseling with ACLUM. Continuing the tradition of collaborative advocacy, in advancing the successful legislative campaign to reform the state's criminal offender record information system, which kept rehabilitated former offenders from mainstream-living, Fran benefitted enormously from ACLUM's support. Fran has also co-counseled with ACLUM. Aside from her personal experience motivating the desire to serve on ACLUM's Board, Fran is excited about ACLUM's decision to create an equal justice position. Fran hopes to lend her expertise in litigating civil rights cases, heightening awareness about the intersection of race and poverty, strengthening grassroots groups and advocating for evidence-based opportunity mapping in advancing racial justice, to further ACLUM's reinvigorated pursuit of equal justice. Fran holds an LL.M. from Boston College Law School and is a 1993 graduate of Suffolk University Law School.

Charmane Higgins is being nominated for a first term on the ACLUM Board. She was named Deputy Executive Director of STRIVE/Boston Employment Service, Inc. in December 2005 and Executive Director on August 1, 2008. Prior to joining STRIVE, Charmane was Director, Cultural Health Initiatives at the American Heart Association, Framingham, Mass. From 1999 to 2003, she served, first, as Career Services Manager and, then, as Assistant Director of Operations for Boston Private Industry Council. Before this, she held positions at Cellular One in Boston and at Southwestern University in Georgetown, Texas. Charmane holds a BA degree from Wellesley College and an MA degree from University of Texas, Austin. In 2003, she earned an MBA degree from Simmons School of Management, Boston. In addition to her role at STRIVE,

she serves as a trustee of Boston Latin School Association. Ms. Higgins is also a senior fellow at the Institute for Nonprofit Management and Leadership at Boston University's School of Management. She currently volunteers as a tutor with School on Wheels, a non-profit agency that educates children impacted by homelessness and as a Promising Pen Pal with the James P. Timilty School/Simmons College in Roxbury.

Myong J. Joun is being re-nominated for a second term on the ACLUM Board. He is a criminal defense and civil rights lawyer in Arlington, Mass. He started his career at the Law Offices of Howard Friedman, P.C. in Boston representing victims of police misconduct involving the use of excessive force, false arrest, illegal strip-searches and wrongful convictions. He also handled cases involving employment and housing discrimination as well as prisoners' rights issues. After almost ten years with the firm, in 2007, Myong opened his own law office to include criminal defense work in addition to the civil rights practice. 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. Myong and Su now live in Arlington with their two sons Marshall and Stuart.

J.B. Kittredge is being nominated for a first term on the ACLUM Board. He has been General Counsel of Grantham, Mayo, Van Otterloo since 2005 and was previously a partner at Ropes & Gray, specializing in regulatory, commercial and governance matters affecting the investment management industry. He is a graduate of Harvard Law School (1979), where he was a member of the Law Review. Having experienced the injustice that prevented his "better half" from marrying to gain permanent entry into the United States, he joins Dr. King (and the ACLU) in proclaiming that "Injustice anywhere is a threat to justice everywhere."

Neil G. McGaraghan is being nominated for a first term on the ACLUM Board. He is a partner at the law firm of Bingham McCutchen where he handles a wide variety of matters, including securities and financial institutions litigation, civil rights, First Amendment media issues and general commercial litigation. He represents clients in federal and state court at the trial and appellate levels, and in arbitration and other dispute resolution proceedings. Prior to joining the firm, Neil clerked for the Hon. William W. Schwarzer, Senior U.S. District Judge for the Northern District of California. Before law school, Neil worked for the European Commission in Brussels, Belgium, for U.S. Sen. Patrick Leahy and as director of government relations for World Learning Inc. In 2005, McGaraghan became a member of a small group of several hundred lawyers around the country, informally known as the Guantánamo Bar Association. With several colleagues at Bingham, he represented 12 prisoners of the United States at Guantánamo Bay, Cuba, prosecuting habeas corpus petitions on their behalf, all of whom are now rebuilding their lives as free men. He is a member of the Amicus Club Committee of the ACLU of Massachusetts.

Nancy Ryan is being re-nominated for a second term on the ACLUM Board. She commented: "I stand for re-election to the Board of Directors of the ACLU of Massachusetts for a second term, humbled by the dedication and competence of our staff, the

2013

ACLU of
Massachusetts
Board Ballot

The ACLU of Massachusetts annual meeting where new board members are announced will be held on June 24, 2013. For information, call 617-482-3170.

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

Please cut out and mail this ballot. Ballots must be received in the ACLU of Massachusetts office, 211 Congress Street, Boston, MA 02110 by May 24, 2013.

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

Vote for 8 or fewer

- Shannon Erwin
- Fran Fajana
- Charmane Higgins
- Myong J. Joun
- J.B. Kittredge
- Neil G. McGaraghan
- Nancy Ryan
- Lynne Soutter

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." She serves currently as chair of the Nominating Committee and as a member of the Executive Committee and hopes to continue playing a role in supporting an ACLU affiliate with dynamic lay leadership that can partner with the staff to take on today's and tomorrow's civil liberties challenges.

Lynne Soutter is being re-nominated for a second term on the ACLUM Board. She serves currently on the Nominating and Executive Committees. Lynne comments: "I came to know the ACLU while representing detainees at Guantanamo. As a young, big-firm attorney and pregnant with my first child, I planned to take a lengthy maternity leave and during that time expected our clients' petition for writ of habeas corpus would progress smoothly through the federal courts, but justice was slow as we 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. This work culminated in the landmark Supreme Court decision, *Boumediene v. Bush*, 553 U.S. 723 (2008). Through this work, I came to appreciate and rely on the work of the ACLU, especially in the areas of government transparency and national security. I have admired the staff's ability to pursue the long cases to exquisite end and am honored to help this storied affiliate and its outstanding leadership continue fighting for freedom in the Commonwealth and the nation."

Faces of the ACLU



1/ Staff attorney Laura Róto addressed immigrants' rights activists rallying in support of the TRUST Act, a state bill that would protect immigrant families from mass deportation. The bill would set a clear standard for local governments not to submit to requests from Immigration and Customs Enforcement (ICE) to detain people for deportation who have otherwise been ordered released by the courts.

2/ Pulitzer Prize winner and longtime *New York Times* columnist Anthony Lewis (1927–2013) addressed an ACLU of Massachusetts gathering in this 2008 photo. Read ACLU of Massachusetts executive director Carol Rose's tribute to Anthony Lewis on p. 3.

3/ Hundreds of marriage equality supporters rallied at City Hall the day before the U.S. Supreme Court heard arguments in *Windsor v. United States*, the ACLU challenge to the discriminatory "Defense of Marriage Act."

4/ The ACLU of Massachusetts joined the Rev. George Walters-Sleyon of the Center for Church and Prison, and other community organizations, in protesting the proposed use of dogs to sniff visitors to state correctional facilities.

5/ Families gathered in support of marriage equality during a rally the day before arguments in the ACLU challenge to DOMA, *Windsor v. United States*, were heard by the U.S. Supreme Court.

6/ Vanita Gupta, deputy legal director of the national ACLU, discussed the need for reform in the criminal justice system during an Amicus Club briefing hosted by the law firm Bingham McCutchen. For more information about the Amicus Club, see aclum.org/amicus.