



# ACLU

AMERICAN CIVIL LIBERTIES UNION  
of ILLINOIS

## The Illinois Brief

### Is It Illegal to Record the Police in Public?

It seems like a harmless enough exercise. You are walking down the street and see the police engaged in a loud discussion with a motorist they have stopped on a public street. Something about the incident doesn't feel right to you, so you pull out your smart-phone and use the built in audio/video camera to record the encounter – all while standing twenty feet away on a public sidewalk. Turns out, however, that under Illinois law, the simple act of recording that very public conversation could land you in jail. And, for groups like the ACLU, using new technologies to gather information about police activity also can be a violation of the law, even though the ACLU and like-minded groups often use that information to advocate change at the local, state and federal level.

Responding to a series of incidents in which individuals in four counties in Illinois have been charged with violating Illinois' eavesdropping law for making audio recordings of public conversations with police, the American Civil Liberties Union of Illinois asked a federal court in August to rule that the First Amendment bans such prosecutions. The ACLU lawsuit, filed in federal district court in Chicago, argues that individuals (and organizations such as the ACLU) may make audio (and video) recordings of police who are performing their public duties in a public place and speaking in a voice loud enough to be heard by the unassisted human ear.

The case is of particular import because the law is being used to arrest and prosecute those who want to monitor police activity in order to deter or detect any police miscon-



Chicago Police observe a rally at the James R. Thompson Center in November of 2010.

duct. In Champaign several years ago a group of community activists attempting to document police practices in predominantly African-American neighborhoods were charged with violating the Illinois eavesdropping law when they filmed and recorded police interactions with citizens in the public way. (The charges were dropped only after the installation of a new state's attorney.) In Chicago, State's Attorney Anita Alvarez currently is prosecuting an individual for violating the eavesdropping statute by recording police officers.

Illinois' eavesdropping law is flawed because it criminalizes the recording of certain non-private conversations, one of a small handful of states that does so. Yet even as the Illinois law criminalizes civilians who audio re-

(continued on page 7)

#### IN THIS ISSUE

From the Executive Director.....	2
Fusion Centers.....	3
Civil Union Bill Passes.....	4
Settlement in Willams Case.....	5
Ten Commandments Display.....	5
RoadTrip Across Illinois.....	6
Obituary: Clyde E. Murphy.....	7
Ending the Death Penalty.....	8
Dr. David Zbaraz.....	9
Reproductive Health.....	9
2010 Bill of Rights Celebration.....	10
Board Nominations.....	11

For coverage of the passage of the civil union bill, turn to page 4.



## Ninety Years

From Executive Director  
Colleen K. Connell

**T**he year 2010 marks the 90th anniversary of the ACLU. We have much to celebrate; we also have much to do.

The essence of our Constitution is a promissory note admonishing all Americans to “establish justice” and to “secure the Blessings of Liberty to ourselves and our posterity.” Unfortunately, our grand constitutional aspirations are not self-enforcing. For its first 150 years, the Bill of Rights was worth little more than the parchment on which it was written.

In 1920, the year of the ACLU founding, America was a divided country. We saw a surge in religious extremism – hoping to stop the advance of science and secularism. We also saw a swell of government repression against those who sought to protect the rights of women, immigrants, workers, and racial and religious minorities:

- Feminist Margaret Sanger was arrested repeatedly for speaking about women’s rights and for distributing information about birth control. The Supreme Court had never enforced the First Amendment to protect freedom of speech.
- African-Americans were lynched for political organizing and for exercising the right to vote.
- The State of Tennessee passed a law prohibiting teachers in public schools and universities from teaching “any theory that denies the story of the Divine Creation of man as taught in the Bible.”

---

*The ACLU will never renege on our commitment to defend the Constitution.*

---

In this vortex, the ACLU’s founders saw a great need for organized resistance to unconscionable – and unconstitutional – repression. Courageously, they formed the ACLU to secure the Blessings of Liberty, including the Bill of Rights, to all persons.

Consider some of the ACLU’s most significant battles:

- In 1941, after the attack on Pearl Harbor, the ACLU’s California affiliates challenged the detention of more than 100,000 innocent Japanese-Americans.
- A decade later, the ACLU challenged loyalty oaths that were part of an anti-communist witch hunt targeted at teachers, scientists and other government employees. ACLU of Illinois lawyers litigated nearly 100 of these cases.
- In the 1950s the ACLU joined with the NAACP to confront the scourge of racism, especially in public schools. We also challenged laws that denied people of color the opportunity to own homes and to marry the person they loved.
- In the 1960s, the ACLU rallied resistance to government censorship. Our late board member Burt Joseph led the charge against governmental attempts to block sales of Henry Miller’s *Tropic of Cancer* and other literary works.

- Starting in the 1960s, the ACLU of Illinois challenged the Chicago Police Department and the FBI for spying on innocent Americans simply because they opposed the Vietnam War or promoted civil rights.

- In 1971, two years before the Supreme Court’s seminal *Roe v. Wade* decision, the ACLU of Illinois won a case striking down an Illinois ban on abortion.

- In 1977, the ACLU of Illinois fought a life and death battle for the First Amendment by defending the right of neo-Nazis to demonstrate in Skokie. Although we abhorred the message, the ACLU established, unequivocally, that “The First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content.”

We paid a huge cost for defending freedom of speech. The ACLU’s stand in Skokie cost us 30 % of our members, forcing us to lay off 40 % of our staff.

ACLU members in Illinois, our staff and our Board, including the late Victor Stone, Professor of Law at the University of Illinois and a giant in constitutional jurisprudence, rebuilt the ACLU. In the 1980s, 1990s and continuing today, we zealously defended freedom of speech, religious liberty, reproductive choice, voting rights, and due process and equal

(continued on page 3)

**ACLU / RBF Staff**

**Colleen K. Connell**  
Executive Director

**K.T. Sullivan**  
Associate Director

**Mary Dixon**  
Legislative Director

**Khadine Bennett**  
Legislative Counsel

**Marcia Liss**  
Development Director

**Maureen Loughnane**  
Development Officer

**Trisa Kern**  
Associate Development Director

**Jesse Larson**  
Development Associate

**Edwin C. Yohnka**  
Director of Communications & Public Policy

**Orelia Casillas**  
Deputy Director of Communications  
& Foundation Relations

**Allie Carter**  
Senior Field Manager

**Althea Walton**  
Finance Director

**Sylvia Bridges**  
Office Manager

**Cristen Adams**  
Administrative Assistant

**Legal Staff**

**Harvey M. Grossman**  
Legal Director

**Benjamin S. Wolf**  
Associate Legal Director  
Director, Institutionalized Persons Project  
& Children's Initiative

**Lorie A. Chaiten**  
Director, Reproductive Rights Project

**John A. Knight**  
Director, LGBT & AIDS Projects

**Barbara P. O'Toole**  
**Adam Schwartz**  
**Gail Waller**  
Senior Staff Counsel

**Leah Bartelt**  
Reproductive Rights Staff Counsel

**Ari Cohn**  
**Cat Itaya**  
**Karen Sheley**  
**Krista Stone-Manista**  
**Lori Turner**  
Legal Fellows

**Ray Hughes**  
**Logan Turner**  
Legal Assistants

**Officers of the Board of Directors**

**Jill Metz**  
President

**Heidi Dalenberg**  
**David Goroff**  
**Cliff Kelley**  
**Diane F. Klotnia**  
**Monique Hanson**  
Vice-Presidents

**Kerry A. Miller**  
Treasurer

**Richard O'Brien**

**From the Executive Director..... (continued)**

protection of the law. We expanded our docket to challenge discrimination against persons with HIV, and added cutting-edge cases to reform the child welfare system, the mental health system, and the state system for caring for persons with disabilities.

As you can see, we have much to celebrate; as you know, we also have much to do. At the conclusion of the ACLU's next 90 years, we must be able to say that we extended constitutional protections to all persons. That work will include:

- Curbing the surveillance society.
- Reforming our immigration system.
- Bringing marriage equality to Illinois.
- Ending capital punishment in

Illinois and across the nation.

- Making reproductive freedom a reality for all.
- Ending racial profiling and reversing the disturbing trend of treating Americans of Arab or Muslim ancestry as "suspect" when flying or seeking to build a place of Islamic worship or education.

The ACLU will never renege on our commitment to defend the Constitution. Together, we will achieve the goal that we have been pursuing since Roger Baldwin and Jane Addams first formed the ACLU – to ensure that the promise of our Constitution is fulfilled and that we secure the Blessings of Liberty to all Americans.


**ACLU Asks Court to Force Release of Information About "Fusion Center"**

One of the major challenges across Illinois after the scandals that rocked the gubernatorial administrations of both George Ryan and Rod Blagojevich is making government more open and transparent. The ACLU of Illinois believes that such transparency must include law enforcement, especially when they are gathering sensitive, personal information about persons in Illinois. That idea is the central focus of a recent lawsuit filed by the ACLU.

Noting that the Illinois State Police (ISP) are not responding to lawful requests for documents under the Illinois Freedom of Information Act, the ACLU of Illinois in September asked a state court in Chicago to compel the police agency to turn over records about the Illinois Statewide Terrorism and Intelligence Center (STIC). STIC is Illinois' "fusion center," an entity that integrates the gathering, storage, sharing and analysis of information about suspected criminal activity among federal, state and local law enforcement agencies in Illinois.

Fusion centers have been a focal point for controversy because they collect and share massive amounts of personal information about members of the public, often without adequate safeguards, oversight and transparency.

"It is dangerous when government – at any level – operates in secret," said Adam Schwartz, Senior Staff Counsel at the ACLU of Illinois. "It is more dangerous here since the activities of fusion centers around the nation raise serious concerns about centralizing unchecked authority in a single agency. Combining unchecked authority with secrecy is bound to lead to abuse."

The ACLU of Illinois has asked the court to order the ISP to share critical information about the STIC, including: STIC's privacy policy to protect innocent persons; records about STIC's use of massive private databases; and records about STIC's use of the internet.

(continued on page 8)

## Civil Union Bill Passes the Illinois House & Senate

By a vote of 32-24, the Illinois Senate approved the Illinois Religious Freedom Protection and Civil Union Act (SB 1716), which extends critical legal protections to gay, lesbian and straight couples across the state. The vote followed by a day a vote in the Illinois House. Now, the bill moves on to the desk of Gov. Pat Quinn, who has promised to sign it.

"The votes in the House and Senate reflect the triumph of hope and fairness over division and hate," said Jill Metz, president of the ACLU of Illinois Board of Directors. "In a bi-partisan vote, legislators rejected the divisive and hate-filled language of opponents to SB 1716, who sought to elevate their ideology over the best interests of same-sex couples - and their families - across Illinois. Thousand of couples will now breathe a bit easier and enjoy fewer worries in facing everyday life complications because of the courage and decency of every legislator who voted yes on SB 1716."

The legislation will secure important rights and benefits to couples who seek civil unions: the ability to share pension benefits and health insurance, the right to dispose of a loved one's remains with dignity, the right to live together in a state-funded nursing home and make emergency medical decisions for a loved one. The bill ends the many indignities, and outright cruelties, faced by LGBT couples when dealing with life's most difficult moments: serious illness, financial hardship and death.

This battle began years ago. Then-newly-elected state Representative Greg Harris first introduced civil union legislation in February of 2007. Despite Illinois' "blue state" reputation, this bill was not a slam-dunk. Indeed, it was only in 2005



Executive Director Colleen Connell and Board President Jill Metz await the vote in the viewing gallery of the Illinois House of Representatives.

that the Illinois Human Rights Act was amended to include protections against discrimination based on sexual orientation or gender identity. Advocates, legislators and Illinoisans of all stripes have worked tirelessly for four years to move civil union legislation forward, inch by inch.

The ACLU of Illinois was proud to work with advocates across the state to secure this critical victory:

- In the Village of Woodstock, Patrick told the story of his partner's death and the morgue's refusal to release the body for burial.
- In the City of Lockport, Sue and Lori met with their representative, talked to the press and sent letters seeking legal recognition for their long-standing union and commitment.
- In the City of Pekin, a constituent arrived at her representative's office,

oxygen tank in tow, to discuss her fear that her partner would not be allowed to visit her in the hospital.

ACLU supporters sent nearly 5,000 emails to legislators and made thousands of calls to urge passage of the legislation. Just as this was a statewide effort, now the victory too belongs to every Illinoisan.

Passage of civil union legislation represents an important - and incredible - step on the road towards full equality for LGBT individuals in Illinois. "Of course, this is only one step on the way to fairness," said Metz. "We look forward to the day when Illinois joins other states across the nation who enacted equal marriage for all persons. The action of the General Assembly reminds us that the day of equality is not far away in the Land of Lincoln."



# Judge Approves Settlement in *Williams*

The adage known to residents at Clayton Residential Home was simple: Stay six months, stay forever. That almost happened for former resident Fred Friedman.

Mr. Friedman, who grapples with severe mental illness, lost his wife, his profession as a lawyer and his home ten years ago, before moving into Clayton. There, art therapy meant coloring, discussion groups took the form of someone reading the newspaper out loud, and interaction with staff was basic: Could he count and read a clock?

A year and a half later, a therapist helped Mr. Friedman find a home in the community. Others like him, he acknowledged in court this September were not as lucky. They stay decades, sometimes for the rest of their lives.

"Many of us remain warehoused for what seems forever and gradually lose the will to recover," said Mr. Friedman, dressed in a suit and now in his eighth year of living on his own, reading from his statement to the judge at a hearing on the issue.

Mr. Friedman is among thousands of Illinois citizens who are mentally ill and warehoused in large, private nursing homes where stagnation, learned helplessness and a culture of apathy impede their growth and well-being. For the psychiatrically disabled, who are often abused and neglected in these for-profit institutions, life is bleak, desolate and absent the power to choose.

Thanks to the ACLU and its allies, it is now a new day for people with mental illness in Illinois.

Persons with mental illnesses in Illinois took a significant, critical step toward independence and dignity after a federal judge in September gave final approval to an historic agreement worked out by the State

of Illinois and a coalition of legal services organizations. The agreement, in *Williams v. Quinn*, gained final approval from U.S. District Court Judge William Hart following a fairness hearing on September 7th, 2010. Once implemented, the agreement paves the way for individuals with mental illnesses to move out of Illinois' outmoded, overcrowded and scandalized nursing home system and receive the services they need in the community.

Mental health experts agree that most people who are developmentally or psychiatrically disabled are best served in smaller settings that resemble real homes, close to their families and integrated in the community, where meaningful interaction can enhance personal development, while assuring basic well-being and health.

By subsidizing segregated facilities, state officials deliberately remain out of compliance with federal integration requirements and accordingly forfeit millions of dollars in federal reimbursements provided to states that prioritize care for people with disabilities in more integrated settings. Moreover, integrated settings, where residents can learn to care for themselves, are often cheaper to operate than are large institutions.

The judge's approval begins a systemic process of evaluating approximately 4,300 persons with mental illnesses to determine their needs and, if they desire, giving them the opportunity to move out of large nursing homes known as "Institutions for Mental Disease" (IMDs) and into community-based settings with the support they need to be successful. These large, impersonal IMDs are operated in a manner that allows individuals little opportunity for independent living and personal growth.

"This is an important step along the path to independence and dignity for thousands of persons with mental illnesses in Illinois," said Benjamin Wolf, Associate Legal Director for the ACLU of Illinois, one of five legal organizations representing the plaintiffs.

"More important, it is a critical step in reforming an outdated system in Illinois. There simply is no rational, medical reason for forcing persons with mental illnesses to receive the treatment they need in a large, institutional setting. We do not require such living arrangements for other diseases – it is indefensible for those with mental illness."

## ACLU of Illinois weighs in on Ten Commandments controversy

A proposal by members of the Saline County Board to post a plaque with the Ten Commandments on the property of the County Courthouse recently drew a sharp objection from the American Civil Liberties Union of Illinois. Recently, the Saline County Board discussed the proposal including the idea of having a public referendum to assess support for the display. Perhaps most surprising, a member of the Board publicly suggested that it was time for the Board to "take a stand and defy the courts."

The ACLU of Illinois recently sent a letter urging the Board to reject this unconstitutional proposal. The letter notes that the Ten Commandments "are highly religious," pointing out that many of the Commandments are religious in nature (i.e., banning idol worship). The ACLU of Illinois also pointed out the string of court decisions that bar the display of the Ten Commandments on public property, because such displays send the message to some Americans that they are outsiders and second-class citizens.

# A Roadtrip for Reproductive Health & Access

In late July and early August, two ACLU staffers were sent off on a 2,573 mile expedition around the state. Their mission: investigate the state of reproductive health services – from sexual health education to abortion care – in Illinois.

Khadine Bennett, then Reproductive Rights Project Legal Fellow (now Legislative Counsel) and Allie Carter, Senior Field Manager, drove from Rockford to Carbondale and from East St. Louis to Champaign-Urbana in a quest to understand the challenges and obstacles faced by women and men in Illinois in accessing reproductive and sexual health care. They spoke with public health officials, rape crisis counselors, community organizers and staff at abortion clinics, and held eight public forums, all across the state.

What they found was alarming. “Every place we visited in Illinois – from Rockford to Carbondale, and from the Quad Cities to Champaign-Urbana – showed us that Illinoisans

face numerous obstacles in accessing reproductive health services and information,” Carter wrote. “Teens aren’t learning how to make healthy decisions and protect themselves, women can’t reliably get access to birth control, emergency contraception or abortion, and those who choose to parent or give up their infant for adoption cannot find the support they need to facilitate those choices.”

One particularly disturbing obstacle was repeated in city after city: doctors refusing to care for women who have had abortions. Not just doctors refusing to perform abortions: in three separate communities, health workers and advocates reported there are doctors refusing to perform routine post-abortion check-ups or even to provide care for completely unrelated ailments to women who previously had abortions. What’s worse, in two instances Bennett and Carter were told that these doctors were some of the few who were accepting Medicaid

patients at all – meaning that poor women would have to face greater obstacles to receive needed medical care. One health worker told of a doctor throwing a patient’s medical records on the ground and storming out after he learned she had had an abortion.

Several women bravely shared heart-wrenching stories of having to seek late-term abortions for medical reasons and the obstacles they faced in accessing this needed medical care. Amy S., a resident of the Chicago suburbs, told her story: “The genetics counselor confirmed the prognosis. If the baby was carried to term, he would essentially be a vegetable. He would never sit, eat, or recognize his parents. He would have seizures, not be able to regulate his temperature or blood sugar, and likely be in great, great pain. And I thought, no way. Not my child. I would not let him suffer and die because I couldn’t muster the courage to do what I had to do for him to pass away in a more humane way.” In the end, Amy was forced to travel to the late Dr. Tiller’s clinic in Kansas to receive her abortion.

The information, testimony and stories gathered over the 11 days on the road in Illinois will be used to further the ACLU of Illinois’ public education and legislative work in support of access to reproductive health care services for all in the state. Look for more updates on what Bennett and Carter found relating to sexual health education in Public Schools in the new year.

You can read more stories from the road at <http://acluroadtrip.org>.



Khadine Bennett and Allie Carter reach the end of their trip.

Sign up for the action alert list! Visit <http://www.aclu-il.org>

## Recording the Police in Public

[ from page 1 ]

cord police, the law allows police to audio record civilians during traffic stops and in other situations.

The ACLU already has felt the limitation of this law. During the past summer, the media reported that Chicago police were conducting random searches of bags and backpacks of individuals who were passing by Chicago beaches on the pathway that runs adjacent to the beach and Lake Shore Drive. When the ACLU investigated, it could not use widely available audio/video recording devices – like the smart phones carried by millions of Americans – to document police activity and conversations, because doing so would risk arrest or prosecution.

“There is a lot of talk about the need for more transparency in government – we should demand that transparency from the police,” said Harvey Grossman, Legal Director for the ACLU of Illinois. “Organizations and individuals should not be threatened with prosecution and jail time simply for monitoring the activities of police in public, having conversations in a public place at normal volume of conversation.”

“Illinois’ eavesdropping law does not permit individuals or groups such as ours to gather critical information about police activities – information that we share with our members, policy makers and the general public,” Grossman added.

The lawsuit was filed against Anita Alvarez as the State’s Attorney of Cook County. She is sued in her official capacity as a prosecutor charged with enforcing the law. The ACLU of Illinois argues that the law infringes on the First Amendment right of individuals and organizations to gather information about the police, to share such information with the public, and to use such information to petition government for redress or grievances or policy changes. The ACLU seeks a court

declaration and injunction against the application of Illinois’ eavesdropping law to audio recording police performing their public duties in a public place while speaking in a voice audible to the unassisted ear.

In a decision issued on October 28 U.S. District Court Judge Suzanne Conlon dismissed the complaint on grounds of standing, holding that the ACLU could not pursue the case since it had not been threatened with prosecution. The court also dismissed the suit without prejudice. The court did not address the first amendment merits of our suit.

On November 18th, we filed a motion asking Judge Conlon to reinstate the lawsuit and to allow us to file an amended complaint, so that we can move forward to the substantive questions we raise about the eavesdropping law. The filing adds new allegations to support the ACLU’s standing and adds our Executive

Director and Senior Field Manager as additional plaintiffs.

“Staff of an organization such as the ACLU of Illinois should not be threatened with prison time for conducting legitimate investigations into police action in Illinois,” said Adam Schwartz, Senior Staff Counsel for the ACLU of Illinois. “We should not be forced to choose between fulfilling our mission and risking prison time for staff members.”

“If this law stays in force, it will remain difficult for many citizens in Illinois to monitor and seek reform of police practices,” added Richard O’Brien, a lawyer with the Chicago office of Sidley Austin LLP who is cooperating with the ACLU on this case. “It is time to change this law and let transparency shine into the practices of our law enforcement agencies.”

## Clyde E. Murphy (1948-2010):

**T**hroughout a career that spanned more than three decades, Clyde E. Murphy battled against discrimination wherever he found it, a crusade that culminated in the U.S. Supreme Court finding that Chicago discriminated against African-American firefighter applicants. Mr. Murphy, 62, died August 17.

In his 35-year legal career, first with the NAACP Legal Defense and Educational Fund and later as Executive Director of the Chicago Lawyers’ Committee for Civil Rights Under Law, Mr. Murphy handled employment discrimination, affirmative action, police misconduct and housing bias cases.

Harvey Grossman, Legal Director of the American Civil Liberties of Illinois, said Mr. Murphy shared the organization’s “commitment to enhancing the quality of education for

minority students” in Chicago Public Schools.

“Clyde was an exceptional person, lawyer and colleague,” Grossman said. “Clyde possessed a thorough knowledge of the law, a deep understanding of people and a passion to make things right. He was a formidable, yet humble advocate for civil rights. We will miss him.”

In 1975, Mr. Murphy became assistant counsel of the NAACP Legal Defense and Educational Fund. There, he developed an extensive federal civil rights practice specializing in discrimination cases and litigation for social change. His career was marked by cases in which Mr. Murphy fought for civil rights, as in 2003 when he joined a lawsuit accusing the Chicago Housing Authority of failing to provide adequate relocation services to residents displaced by demolition.

## Ending the Death Penalty in Illinois, Step by Step

**F**all Veto Session 2010 in the Illinois General Assembly was a time to dream big. Two extraordinarily important pieces of civil liberties legislation were up for consideration in the Illinois General Assembly: civil unions (read more, page 4) and Senate Bill 3539, which would abolish the death penalty in Illinois.

Capital punishment, the ultimate denial of civil liberties, is a costly, irreversible and barbaric practice, the epitome of cruel and unusual punishment. It does not deter crime, and its arbitrary implementation is grotesquely unfair and undermines the 14th Amendment's guarantee of equal treatment under the law.

The ACLU of Illinois has been fighting for decades to end the death penalty in our state. Indeed, the Illinois Coalition to Abolish the Death Penalty (ICADP), the lead organization in this effort, shared our offices in Chicago for many years. This legislative season the dream of ending the death penalty once and for all has seemed closer than ever, with legislation passing through committee and ready for a vote on the floor of the House of Representatives before the veto session ended on Wednesday, December 1st.

There is still time for the legislature to vote on this crucial bill. Illinois' 96th General Assembly will meet once again in January to consider pending legislation before its final adjournment and the start of the 97th General Assembly on the 12th. The ACLU of Illinois is working with ICADP to find the final few votes necessary for passage. You can urge your representative to support the legislation at [action.aclu.org/ildeathpenalty](http://action.aclu.org/ildeathpenalty).

Although it is often assumed that capital punishment is less costly than life imprisonment, the opposite is true: in terms of dollars and in terms of crime control. Even during

a moratorium on executions, the Illinois death penalty remains an expensive and ineffective use of scarce resources. From 2003 to 2010, more than \$100 million was appropriated to pay for prosecution and defense costs alone.

The capital punishment system in Illinois is broken beyond repair. From 1977 to 2000 Illinois executed 12 inmates, but freed 13 from death row. Some of the 13 freed individuals were completely exonerated. In the 10 years since the moratorium, seven more inmates have been released from death row. Only Florida has released more exonerated defendants.

The flaws in the system have been clearly identified by the Illinois

### Illinois' "Fusion Center"

Illinois' STIC is operated by the ISP, and is based in Springfield. Its original mandate in 2003 was to gather terrorism intelligence, but its mission has dramatically expanded beyond terrorism to cover information about all crimes, hazards and threats. STIC has scores of employees, and hosts analysts from a broad array of federal, state and local police agencies. STIC has direct access to dozens of public and private record systems containing sensitive information about many members of the public, including criminal background, digital photographs, and employment, medical, and credit history. Without proper safeguards and oversight, this vast concentration of sensitive information in government hands endangers civil liberties. It is unclear whether Illinois has adopted the necessary privacy rule – which is why the ACLU has filed this FOIA enforcement lawsuit.

Press reports across the country paint a troubling picture of fusion center activity. The fusion center in

Capital Punishment Reforms Study Committee, a committee ordered by Governor Ryan and created by statute in 2000 following his moratorium on executions. Two years later, the Committee issued 85 recommendations to improve the death penalty system in Illinois. Eight years later, less than half of the recommendations have been implemented, there is not enough money to implement recommendations, and local and national organizations – including the 4000 judges, lawyers and law professors of the American Law Institute – believe that the system is irretrievably broken.

Take action with the ACLU, and bring an end to the broken death penalty system once and for all.

( from page 3)

Virginia, for example, labeled that state's historic black colleges as a possible threat. An analyst at the fusion center in Wisconsin targeted protestors on both sides of the abortion debate as a threat to public safety. The Maryland fusion center targeted and spread information about dozens of lawful advocacy organizations. The Missouri fusion center urged surveillance of the supporters of Congressman Ron Paul.

"If law enforcement fusion centers are going to gather a vast quantity of personal information about many people, at a minimum privacy policies must be adopted. We also need rules to protect the First Amendment rights of all persons – no matter what their political beliefs – to engage in speech about public policy issues without being investigated by a fusion center," added Dan Feeney, a lawyer with Miller Shakman & Beem who is cooperating with the ACLU on this case.



## To Dr. David Zbaraz, Goodbye and Thank You

The night before long-time ACLU activist and renowned obstetrician Dr. David Zbaraz died, he made three calls: He reassured a former patient who had struggled to get pregnant that she was, in fact, pregnant. He explained a complicated delivery procedure to a friend of the family. And, he helped a third person. His wife didn't know who. She just knew he was helping.

Dr. Zbaraz then turned to his wife Deety and said: "I feel so good that I can help those people."

The next day, Dr. Zbaraz, age 69, died of an aneurysm in their Chicago-area home.

Such devoted care marked the long career of a distinguished doctor who felt that his professional obligations did not end with his expert medical care of women, but rather, that his role necessarily included advocacy on behalf of women's reproductive freedom. Dr. Zbaraz advanced that freedom by serving as a named plaintiff in several reproductive rights cases for the American Civil Liberties Union.

In the first case that bore his name, *Williams v. Zbaraz*, he helped the ACLU fight for Medicaid funding for low-income women. Although the Supreme Court ultimately ruled against him, he felt that all women, regardless of income had a right to the full range of reproductive health care.

His second experience as a named plaintiff, in *Zbaraz v. Hartigan*, extended for more than 20 years and again went to the Supreme Court of the United States. In that case, the Supreme Court, by an evenly divided vote, left in place a lower court injunction that blocked the state from enforcing its parental notice of abortion law. The injunction in that case was lifted only a year ago by the U.S. Court of Appeals for the Seventh Circuit.

Dr. Zbaraz cared deeply about the health of teens. One of his first patients as a resident was an eleven year old who gave birth at Michael Reese Hospital. He came home totally shaken, recounted his wife. He kept saying over and over: "she didn't even know how it was that she became pregnant! Her young body just wasn't ready for this." His inspiration was simple: He did not want his daughter to have to make any such reproductive healthcare decision without being safe.

He was appointed to a number of boards and received multiple awards including one from the ACLU and another from the Illinois Pro-Choice Alliance. He also volunteered for



12 years as attending physician at Links, a social service agency that offered medical care to low-income young women.

Dr. Zbaraz also lived a full life outside of his professional career. He loved his grandchildren, enjoyed informally teaching others, liked good food, had a wonderful sense of humor and a big personality that filled whatever room he entered.

"David gave generously of his time, his expertise, and his compassion for women," said Colleen Connell, the Illinois ACLU's Executive Director. "Tens of thousands of Illinois women retain the freedom to make reproductive decisions, including the decision to have an abortion, because of David Zbaraz and his advocacy on behalf of all women."

## Reproductive Health in the 2011 Legislative Session

One of the goals for 2011 of the Campaign for Reproductive Health and Access is the advancement of legislation to reduce unintended pregnancy, STI's and HIV/AIDS among youth. Legislation entitled Illinois' Personal Responsibility Education Program will be filed in the 2011 session. This legislation will require that elementary or secondary public schools currently offering sexual health education courses adopt curriculum that is medically accurate, developmentally and age appropriate, and free of bias related to race, religion, gender, sexual orientation or gender identity. In the last month, Gov. Pat Quinn has rejected federal Title V funds, which only support failed abstinence-only programs, and has instead applied for federal Personal Responsibility Education Program (PREP) funds that support programs proven effective at helping young people make healthy decisions. These PREP funds will be available for implementing this comprehensive sexual health education legislation should the bill become law. A bill has been drafted and we are in the initial stages of garnering support, preparing materials and considering sponsors.

## Celebrating Ninety Years of the ACLU



Board of Directors President Jill Metz and Harriet Hausman, recipient of the 2010 Edwin A. Rothschild Award.



Event Co-Chairs Mary Stowell and Ruth Krugly.

"It is not a coincidence that tonight Harriet becomes the second member of her family to win this award. Her husband Marty won it some years ago, in part – as you know – for his courage in going on a speaking tour to Chicago-area synagogues to defend the ACLU's advocacy on behalf of the right of a neo-Nazi group to demonstrate in Skokie.

Here is what you may not know. Harriet went with Marty on every one of those speaking engagements. She believed – just as strongly as Marty – that free speech could not be a convenient blanket that one put on or took off when the moment seemed convenient. Harriet's fierce defense of free speech – like her defense of all civil liberties – recognized that fundamental freedoms either applied to all of us, or they certainly would apply to none of us."

*Jill Metz, presenting Harriet Hausman with the 2010 Edwin A. Rothschild Award*



Volunteers and Staff: Dylan Rice, Bianca Davis, Yvonne Slosarski, Maureen Loughnane, Trisa Kern, Hannah Avellone and Jesse Larson

## 2010 Bill of Rights Celebration

## Nominations for the 2010 Board of Directors

**T**he Nominating Committee met and selected the following individuals for nomination to the ACLU of Illinois Board of Directors:

### **James D. Holzhauer, Partner, Mayer Brown**

James D. Holzhauer served as Chairman of Mayer Brown from June 2007 to June 2009 and served on the firm's Policy & Planning Committee from 1998 to 2009. He also served as Mayer Brown's General Counsel from 1992 to 2007. He is a member of the Pro Bono Committee and the Committee on Diversity and Inclusion. He also counsels lawyers and law firms on professional liability, risk management and governance matters.

Jim joined Mayer Brown in 1988 from the faculty of the University of Chicago Law School (1985-1988), where he continued to teach through 2006. He was also Visiting North American Lecturer at the University of Warwick Law School in England. Following law school graduation, he was Law Clerk to The Honorable Robert A. Ainsworth Jr., United States Court of Appeals for the Fifth Circuit, after which he was Law Clerk to Chief Justice Warren E. Burger, Supreme Court of the United States, 1981-1982.

### **Naria Santa Lucia, Executive Director, James B. Moran Center for Youth Advocacy (formerly the Evanston Community Defender Office, Inc.)**

Naria Santa Lucia is responsible for the overall development, strategic planning and programmatic direction of the Evanston Community Defender Office. Prior to serving as the Executive Director, Naria was an Associate at the law firm of Kirkland & Ellis LLP. Naria also served as Program Manager at the Seattle Youth Involvement Network and Program Director at the Center

for Ethical Leadership. Naria is a graduate of the Law School and the College at the University of Chicago, where she graduated with honors and was elected phi beta kappa.

### **Cindy Wilson, Associate Professor of Law, Northwestern University Law School**

Cindy Wilson is both a Clinical Associate Professor and the Public Interest Advisor in the law school's Center for Career Strategy and Advancement. She teaches an externship on public interest law, a seminar on pro bono law, and a course in legal ethics taught by clinical professors and Chicago area lawyers. Cindy also counsels students interested in public interest law, helps direct public interest programming at the law school, and serves as the faculty advisor to several student public interest groups.

She was responsible for directing the work of the Chicago Lawyers' Committee in the areas of employment discrimination and enhancing employment opportunities for low income workers. She litigated a wide variety of cases, including a class action race discrimination case challenging the tests used in hiring entry-level firefighters by the City of Chicago, and two cases defending affirmative action policies of the County of Cook and the City of Chicago regarding construction contracts. Cindy also started a mediation representation program for mediations conducted by the Equal Employment Opportunity Commission, one of the first such programs in the country.

From 1990 to 2000, Cindy was the Project Director of the Employment Opportunity Project at the Chicago Lawyers' Committee for Civil Rights Under Law.

Prior to joining the Chicago Lawyers' Committee, Cindy was a litigation

associate at Sachnoff and Weaver for four years. She also served as a law clerk to the Honorable Seymour F. Simon of the Illinois Supreme Court. From 1994 to 2000, Cindy was an Adjunct Professor at Northwestern University School of Law, and in 1999 she was selected as the Outstanding Adjunct in Legal Ethics. Cindy graduated from Northwestern School of Law, cum laude, Order of the Coif, in 1986.

This slate of nominees will be voted upon at the next board meeting, scheduled for Thursday, January 27th from 5:30 -7:00 p.m. at the ACLU offices.

Want to become a more active ACLU member? Join our volunteer registry and get updates on the latest volunteer opportunities. You can join by visiting:

[action.aclu.org/ilvolunteer](http://action.aclu.org/ilvolunteer)

You can also sign up for an upcoming volunteer night, held the third Wednesday of each month in our Chicago office.

### **The Illinois Brief**

(ISSN: 1044-7225) is published four times per year - winter, spring, summer and fall - by the American Civil Liberties Union of Illinois and the Roger Baldwin Foundation of the ACLU, Inc., 180 N. Michigan, Suite 2300, Chicago, IL 60601, (312) 201 - 9740. Subscription by membership; subscriber price: 50 cents per year. Periodicals class postage paid at Chicago, Illinois and additional mailing offices. POSTMASTER: Send address changes to: *The Illinois Brief*, ACLU, 180 N. Michigan, Suite 2300, Chicago, IL 60601-7401. All unsigned articles may be reprinted without express permission. However, the following acknowledgement must accompany all reprints: "Reprinted from the Illinois Brief, a publication of the American Civil Liberties Union of Illinois." Express written permission is required for all signed articles in this publication.



# ACLU

AMERICAN CIVIL LIBERTIES UNION  
of ILLINOIS

ACLU of Illinois  
180 N Michigan Ave, Ste 2300  
Chicago IL 60601  
Phone: (312) 201 - 9740  
Email: [ACLUofIllinois@aclu-il.org](mailto:ACLUofIllinois@aclu-il.org)  
Website: <http://www.aclu-il.org>

PERIODICAL

## The DeSilver Society

*Leave a legacy of liberty for generations to come.*

Thousands of passionate civil libertarians have stepped forward and expressed their most cherished values by making a deeply meaningful gift to the RBF/ACLU in their estate plans.

We invite you to join this special group of ACLU supporters who have made freedom, justice, and equality their personal legacy.

For more information, please visit [www.aclu-il.org/takeaction/desilver.shtml](http://www.aclu-il.org/takeaction/desilver.shtml).