

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY

NEW BRUNSWICK

AN INTERVIEW WITH ROBERT REMAR

FOR THE

RUTGERS ORAL HISTORY ARCHIVES

INTERVIEW CONDUCTED BY

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ATLANTA, GEORGIA

MAY 18, 2015

TRANSCRIPT BY

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Molly Graham: This begins an oral history interview with Robert Remar for the ACLU Oral History Project. The interview is taking place on May 18, 2015 in Atlanta, Georgia and the interviewer is Molly Graham. So we had gotten up to the late '70s and you joining, I think the Georgia affiliate of the ACLU. Maybe just talk about how you got on their radar or how that happened.

Robert Remar: Well, I think I did talk about that. Gene Guerrero, who was the director at the time, contacted me when I was a legal services lawyer down in Savannah, Georgia to represent some inmates at the Georgia State Prison. [Editor's Note: Gene Guerrero is currently the Director of the Crime and Violence Prevention Initiative of the Open Society Foundations.] So that was my first connection with the ACLU of Georgia. Then in, I think it was 1978, I was asked to serve on their legal committee. There was not a staff lawyer, so almost all of the legal work was done by volunteer lawyers and there was a legal committee to screen the cases. Shortly after that, I then joined the Board of Directors and served on the Board of Directors from 1979 until probably the late '80s. I was President of the Georgia affiliate from 1985 to 1987, somewhere in those years.

MG: Can you talk a little bit about the history of the Georgia affiliate?

RR: I'll tell you what I know, what I remember. I think the Georgia affiliate was started in the 1960s. Actually, I have a list of the former Presidents. There was a woman named Rusty Kitfield--I believe her name was--who was the first Executive Director. The first Executive Director was Florence Isbell, 1965 to 1969. Rusty Kitfield was Executive Director from 1969 to 1972. Then Gene Guerrero, 1973 to 1989. Margie Pitts Hames, who argued the companion case to *Roe v. Wade*, *Doe v. Bolton*--Margie was one of the founders of the Georgia affiliate. [Editor's Note: *Doe v. Bolton* was a 1973 Supreme Court case that is considered the companion case to *Roe v. Wade*. *Doe v. Bolton* established the right of women to have an abortion if medical reasons permit.] A fellow named Jerry Cohen--I think I mentioned his name to you--who served as General Counsel to the Internal Revenue Service at one point, was one of the founders. So there was a group of people who began it in, I think, the mid-'60s. Ed Ladd was the Founding President in 1963. Then Al Kehrer, a Union Organizer, Bill Alexander, who became a judge, Hugh Gibbert, a lawyer, John Johnston, Clint Deveaux, who became a judge; Jerry Cohen; Bruce Morris, Martha Gaines, then me in 1985. It was a pretty shoestring operation. One of the offices was above a porno movie theater downtown.

MG: That seems to be a theme for early ACLU offices. [laughter]

RR: Oh is it? [laughter]

MG: I think the office in New York, before they moved to Broad Street was in Times Square when Times Square was a little seedier.

RR: It was at 134 West 43rd Street, right off of Broadway or 7th Avenue, above a restaurant--and I'll have to remember the name of the restaurant--the Century, but it was in a rickety old building too, back when Times Square was really filled with peep shows, porno shops, and homeless people and hypodermic needles everywhere. Then, a fellow named Gene Guerrero came in, I guess, 1973, and Gene became very well known around the state. [Gene] helped develop a fairly strong legal program. There were a lot of cases filed--criminal justice cases,

First Amendment cases, and a lot of work around the death penalty. I think I mentioned to you that there was a woman by the name of Patsy Morris who single-handedly tried to recruit lawyers in post-conviction death penalty cases. [Editor's Note: Harriet Pratt "Patsy" Morris died in 1997. She worked against the death penalty in the ACLU of Georgia for over twenty years. She also worked at the Georgia Appellate Practice and Educational Research Center.] The Georgia Supreme Court ruled in a case that there was no right to counsel in post-conviction proceedings. So she basically found lawyers to represent death row inmates at their state habeas and then into the federal habeas process, until some of us involved in the bar were able to get, what we called the Resource Center--a death penalty representation project started. The ACLU was pretty active in the legislature. Particularly in the '70s and '80s, there were not many progressive civil rights groups active. There are a lot more now. There's the Southern Center for Human Rights. There's the Georgia Justice Project. There are a lot of organizations, but in those days it was essentially the ACLU.

MG: What sort of notable cases went through the Georgia affiliate in those years, the '60s and '70s?

RR: Let me think now. Well, there was the *Doe v. Bolton* case, the abortion rights case. The ACLU was involved in *Bond v. Floyd* (1966) when Julian Bond was denied a seat in the Georgia House. There were some criminal justice cases, such as *Furman v. Georgia* (1972), in which the Supreme Court held the Georgia death penalty unconstitutional. Later reiterated by *Gregg v. Georgia*. One, there was a challenge that was brought to the entire indigent defense system in Georgia, under the unfortunate name *Lucky v. Harris*, which we were successful in the district court and then the Court of Appeals reversed and that effort unfortunately, it created a lot of public awareness, but legally it didn't work. *Lucky* was in the 1980s. I'm trying to remember what other cases that were of major significance. When you talk to Laughlin, there were voting rights cases that were done in Georgia and throughout the south. [Editor's Note: Laughlin McDonald has been the Director of the ACLU's Voting Rights Project since 1972.] There was one that went to the US Supreme Court involving the at-large system of elections in Burke County, Georgia, where the Supreme Court said that an at-large system could have the effect of diluting minority voting strength and required that there be districts established--*Rogers v. Lodge*. The solicitor here in Fulton County whose name was Henson McAuliffe. He tried to close down as many adult bookshops and gay bars as he could. There was litigation against him particularly on First Amendment grounds. So that's a flavor of what I can remember.

MG: I'm curious if there are people involved in the affiliate that later showed up on the national level?

RR: We had sort of a de facto succession plan, which is that the immediate past president would become the affiliate representative on the national board. So there was a fellow named Jeff Bramlett--he was after me, but he went on to the national board. Jeff is a lawyer and later President at the State Bar of Georgia. [There was] a fellow named (Bruce Morris?), who's a criminal defense lawyer here, Martha Gaines--all went on to the national board as affiliate representatives. I think I'm the only one that then ran at-large and stayed as an at large representative. Margie Hames was an at-large representative for quite some time. So that was the main involvement of local people at the national level. Of course we had an office here, the southern regional--the voting rights office that Laughlin ran, was based here. So Laughlin and Neil Bradley and some of the other people in his office had a fair amount of interaction with the

people on the affiliate as well. Florence Isbell later worked for the national ACLU in the Washington office and was executive director of both the Maryland and National Capital area affiliates. She was married to David Isbell, a long time ACLU activist.

MG: Can you describe the relationship between the affiliate here in Georgia with the national ACLU? How they communicated with each other?

RR: Now or then?

MG: Then and then maybe how you saw that change.

RR: Well, the relationship between the national organization and the affiliates has changed 180 degrees in the time that I've been involved. Back in the '70s and '80s and '90s too for that matter, there was a more of an "us versus them" attitude. The affiliates felt that they were on their own, that they weren't getting a lot of support from the national organization. There was a wide disparity in resources among affiliates. I mean if you would compare the ACLU of Southern California or the New York Civil Liberties Union with Georgia, or Alabama, or South Carolina, it was night and day. I mean they had staffs of lawyers. We eventually got one in the '80s. So there was a little bit of--not resentment, but what have you done for me today kind of attitude. Really, the only significant contact would be through the national board, which was a way for the affiliates to sort of have a connection with a national organization because every affiliate had a representative on the national board. There were cases that were brought where the national staff would come and assist in a case that was brought in the affiliate, but in terms of concerted fundraising, there was sharing of membership income but nowhere near the type of structures we have today. From a policy perspective, there was a thing called the biennial conference, which was structured--it was in the bylaws and was a method by which affiliates could affect national policy. So every two years there was a conference where there would be affiliate representatives. I think they were based on your membership, your number of delegates if I remember correctly. Then there were plenary sessions where policies were debated and if they were adopted by the biennial they then were presented to the national board, which could reject them by like a two-thirds vote. Then I think would go back to the next biennial conference, but there was a mechanism by which policy could be adopted. I think I mentioned to you when we talked last that one of the things that happened--at one of the biennials was a creation of a death penalty project in the southern states, which caused Ira Glasser all kinds of grief because the biennial was telling him how to spend national money. [Editor's Note: Ira Glasser was the Executive Director of the ACLU from 1978 to 2001.] So, when Anthony Romero became Executive Director in 2001, one of the things that he started to do was to strengthen the national-affiliate relationship. He created the Affiliate Support and Advocacy Department. We developed a whole series of financial rules in terms of sharing both membership income and bequest income. There was a real effort made to stop competition between the affiliates and the national over particularly large gifts and bequests, because it used to be, we'd go to a donor here in Atlanta and say well earmark the money for Georgia. So you didn't have a lot of cooperation. Those rules were changed so that you're not supposed to solicit for it. You're supposed to solicit a gift and then it gets shared pursuant to the various sharing rules. There was and there is a GMI program, which is Guaranteed Minimum Income, where each affiliate has a guaranteed amount of support from the national organization so that they can have a staff and a real presence in every state. There was an effort called the Strategic Affiliate Initiative, SAI, where certain affiliates were targeted for special grants and development

activities. The relationship between the national organization and the affiliates is now, I think, a very strong relationship. There are national staff meetings where affiliate executive directors and affiliate staff come and meet with national staff. It's really much more of an integrated organization now. There's still some friction. I mean, there are some affiliates, particularly some of the larger ones who--sometimes they're net donors to the smaller affiliates, but I think generally, there's a recognition that it's one national organization, and it's important that there be a strong presence in every state.

MG: Did they also start to make changes for term limits for board positions during this time period?

RR: There's never been--up until we changed the bylaws, I guess, two years ago, there weren't term limits, not for at-large members. Each affiliate was free to set whatever terms they wanted and a number of the affiliates do have term limits. It's interesting. On the national board, and we'll have to see how it changes because the bylaws have changed and the number of at-large members is decreasing and there are now term limits for at-large members. I think we also have minimum terms for affiliate representatives if I remember correctly. But for many years, and for all the years I've been on the national board, you have some people who have been there a long time. I'm one of them now. Then you have affiliate representatives, some of whom have also been there a long time, but then a lot of them who--there's a lot of turnover. At every board meeting there's always new faces. In some respects it's harder for new people to understand the sort of arcane procedural debate rules, and also what we've done in the past. For example, the fact that we've debated campaign finance issues for twenty years. Some people come and think it's the first time. Also, a lot of people who are new and understandably don't have a good sense of all the structural--what a big organization it is. That has been a problem and one of the things that the bylaws changes hoped to do is to do two things. One is to take the traditional board management kind of functions--audit, investment, evaluating the executive director, those kinds of things--and put that into the executive committee, and let the national board be more of a policymaking body. While, at the same time, number two, ensuring that every affiliate still has representation, and also, trying to have a little more continuity among affiliate representatives.

MG: I had read that instituting the guaranteed minimum income helped diversify the ACLU because it was an incentive for maybe economically disadvantaged folks to want to be part of the ACLU. Did you see that happen or am I off?

RR: Well, I would say that--and others may disagree with me--I think that we've had a very diverse board, both in terms of race and gender, sexual orientation, less so in disability. Part of that has been a conscious effort to make it a diverse board. When I first came on the national board in '86, it was probably dominated by older white men. That's changed over the years. We maintain statistics of the composition of the board, and it's pretty diverse. I would think helping to build the affiliates has increased diversity among the affiliate representatives. We actually have a policy that requires that you have a candidate who meets one of the diversity goals at some point. You can't go on for twenty years and have a white male. I wouldn't say there's a direct correlation. I think that probably building the affiliate structure, and getting more people involved in the affiliates has helped to increase diversity.

MG: So you think those changes happened with Romero on board more so?

RR: It started under Ira Glasser. There are others who have better sense of this, but we did have sort of an affirmative action type policy that was developed under Ira. During his tenure was when the effort to make the board more diverse happened. It's been an effort that's been ongoing. I think Anthony certainly supports diversity on the board, but I think it's been a general issue, topic of discussion for at least twenty years.

MG: Talking a little bit more about your role in the Georgia affiliate, can say again how it changed over time and maybe how your role, and position, and work changed with it?

RR: When you're president you're the spokesperson for the organization. I did a fair amount of media kinds of things, on the local talk radio shows and public radio, and occasionally on television. That's the role for the president. When I went on the national board, I made a point of reporting to the affiliate board on what was going on, and also, trying to promote things that were important to the affiliate at the national level. Criminal Justice issues were very important to us, given that Georgia had--and still does--one of the highest rates of incarceration in the world per capita. The prison population is huge. Racial disparity in the prison population is huge. Our indigent defense system was a--we didn't have one, and those were issues we were trying to work with the national organization on. My focus gradually became more focused on the national organization. At some point, I left the affiliate board. Without getting into a lot of detail, the affiliate over the last ten years has become much more isolated from the national organization and nowhere near as visible as it's been in the past. That hopefully is going to change. The affiliate support department has made a real effort to try and support the Georgia affiliate. We have a new executive director who's starting next month. There's an effort to have the board be more in touch with the rest of the community, particularly the legal community.

MG: Can you say how it got out of touch?

RR: Let's just say the personnel of the affiliate--I'll just be frank. The executive director that was here for some years was not as effective in reaching out to the rest of the allied community. The affiliate became much more insular and unfortunately less visible.

MG: Can you say who that is? If you prefer not to, that is fine.

RR: I prefer not to. It's a matter of record anyway.

MG: Maybe now talk about the process of becoming an affiliate representative to the national board. It was in 1986.

RR: It was in 1986, yes.

MG: Can you talk about what was happening around that time period and what that process was like?

RR: Oh, my. Well, I remember vividly the first board meeting, going there, and being completely overwhelmed. I think we had eighty to eighty-three people. They met in the Princeton Club because one of the former presidents--it might have been Ed Ennis--was a member of the Princeton Club. [Editor's Note: Edward Ennis worked for the ACLU for over forty years. He died in 1990.] So that's where we had the meetings. The very first day, the Deputy Director whose name was Alan Reitman--I don't know if you've heard that name before.

Alan had been with the ACLU probably thirty years. Alan worked for the ACLU for forty years. There was three or four of us, and our orientation was he took us down to the office at 134 West 43rd Street, up into a conference room and tried to explain how the national board worked and what the national organization did over lunch. Then we went back to the meeting. It was a little bit overwhelming. Norman Dorsen was the President at the time. [Editor's Note: Norman Dorsen was the President of the ACLU from 1976 to 1991. He currently teaches law at NYU Law School.] Norman is an incredibly intelligent and forceful personality, but also very welcoming. Norman went out of his way to welcome me and other new board members. The meetings are run by *Robert's Rules of Order*, so you have to know parliamentary procedure, but Norman would give you a break every now and then. Norman was president. Ed Ennis, who's the former president, was on the board. There's a fellow named David Isbell, who had been active in the ACLU for a long, long time. There were a lot of people whose names were well known and had been around for a long time--Faith Seidenberg, the feminist and civil rights lawyer. I remember some of the early issues. Some of us were very concerned that the ACLU needed to be more involved in economic justice issues. There were a number of us who came from legal services backgrounds, so probably were more sensitive to it, but at one of the biennials, we managed to get a resolution passed that equated--that poverty was a civil liberties issue. I can't remember the exact language. There was a fair amount of debate in those years, in the mid to late '80s, about whether the ACLU should take a position on economic justice issues. There was a group, mainly the more traditional folks who thought, "No. Our role is to advocate for the Bill of Rights. We're a free speech, we're a free association, we're a freedom of religion organization, and this is really not something we should be doing." Then there were others who said that poverty, economic rights are closely tied to your ability to exercise your civil rights. The whole criminal justice issues were nowhere near as focused as they are today, but that was a dimension. Eventually, we got some policies passed that are in the huge policy manual, which probably no one looks at anymore, but which did equate a form of economic rights to civil liberties, that if people don't have a decent place to live, if they don't have enough to eat, that effects their ability to exercise their fundamental rights. That was an issue that was vigorously debated in those days. Another issue I remember that generated a fair amount of debate was over the Rodney King incident. [Editor's Note: On April 29, 1992 four police officers who had beaten Rodney King, an African American cab driver, a year earlier were acquitted of all charges in state court. The event sparked the 1992 Los Angeles riots where over fifty people were killed. Later on, the police officers were put on trial in federal court and convicted.] If my memory serves me, the police officers involved were tried in state court and I believe they were acquitted. Then there was a federal civil rights prosecution. The question was whether that was a violation of double jeopardy. The cops had been tried once and now they were going to be tried again by a different jurisdiction for a different crime, but arising out of the same occurrence. We had a fairly vigorous debate on the board about whether the civil rights issues trumped the Eighth Amendment issues, the double jeopardy issues. There was an argument--and this is what the courts say, that they're different sovereigns--the state and the federal government are different governmental entities, different sovereigns and they're different laws, and you're not prosecuting someone for the same offense twice. You're prosecuting them for a different offense. Then there are others who said, "Wait a minute. This is the power of the government, whether it's the state or the federal government. You can't try someone twice for the same basic underlying offense." That generated both emotion and controversy. I honestly can't remember where we came out on it. I think, at the end of the day, the majority said that it was not a violation of

double jeopardy because it was different crimes and different sovereigns and different interests. The Rodney King [case] was our modern day--not modern day--was our current example. Look at in the '60s with the murders of Medgar Evers, and the civil rights workers, and people being acquitted by all white southern juries. [Editor's Note: Civil Rights leader Medgar Evers was assassinated on June 12, 1963.] Shouldn't the federal government be able to try them for civil rights violations? That was another interesting controversy.

MG: How did you feel about it?

RR: I took more of the purist double jeopardy view that, from the point of view of the defendant, you're being prosecuted twice and you have to defend yourself twice for the same underlying crime basically. I suppose maybe if the first trial is purely a sham, but it wasn't a sham. They were prosecuted, I think, in Los Angeles. My view, I think, is that I tend to oppose government power even if someone might say it's being used for a good purpose, but it's an interesting issue.

MG: When you join the national board as a representative, what was important to you or what were things you wanted to accomplish?

RR: Well, I wanted to, I guess first make sure that my affiliate, the Georgia affiliate and others like us both had a seat at the table in terms of policy but more importantly that we got more support to try and build the organization in our state and to get the national organization to pay more attention to the fact that you have affiliates, particularly in the south, who had a difficult time raising money and generating support. So we needed to try and get more national support. The economic justice issues were important to me, also criminal justice issues. I thought we needed to pay perhaps more attention to the failures in the criminal justice system and the impact that it had on poor communities and communities of color. I think those were the main issues that I was interested in.

MG: When did you become treasurer?

RR: When did I become treasurer? I think it's six years ago, 2008, 2009. I think in that time frame.

MG: Going into the '90s, can you talk about the issues during that time period that were important to the board or being discussed? I am thinking about the Internet and how technology changed.

RR: Well, that's interesting. I don't think until the PATRIOT Act was passed and then you have the NSA issues, the FISA court issues--and this was even before Snowden. [Editor's Note: The USA PATRIOT Act, or Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, was signed into law by President George W. Bush on October 26, 2001. The bill broadened law enforcements' abilities of surveillance and to pursue suspects. It has been criticized under civil liberties organizations.] [Editor's Note: The Foreign Intelligence Surveillance Act of 1978, or FISA, provides the procedure for the government to collect electronic and physical surveillance of people conducting espionage or terrorism.] [Editor's Note: Edward Snowden was a National Security Agency subcontractor who released classified documents about surveillance activities. He is currently in exile in Russia.] I think that's when the ACLU really began focusing on electronic privacy and surveillance issues



and there we filed a whole bunch of lawsuits over the privacy issues, data collection issues. There's the one that the Second Circuit just reversed a couple weeks ago, but that case was originally filed over the NSA sort of bulk collection of data issues before Snowden. The court said neither the ACLU nor the other individuals were people who communicated regularly electronically with people overseas didn't have standing because we couldn't show that any of our communications had actually been intercepted. Then Snowden's revelation was: well, everyone's are being intercepted. [laughter] Before that, I think the issues in the '90s--I think gay rights issues were prominent. The whole question of same-sex marriage was developing. We fought against the Defense of Marriage Act and then the Windsor case was filed later. [Editor's Note: The Defense of Marriage Act, or DOMA, is a 1996 law that prevented the federal government from recognizing same-sex marriage in the states. However, Section 3 of the law, which allowed the prevention, was struck down by the Supreme Court as unconstitutional.] [Editor's Note: *United States v. Windsor* is a 2013 Supreme Court case which declared Section 3 of the Defense of Marriage Act unconstitutional.] Abortion rights were a big issue in the '90s, as you had all of the various federal and state efforts to restrict abortion rights. Campaign finance has always been an issue that we've debated with the whole issue of is money speech and balancing the right of people to contribute and to use their money as they want, versus the integrity of the political system. My memory is those were sort of the issues that were important in that time period. Then after September 11th, all the national security issues became a major area of focus.

MG: Were you involved in the search for the new Executive Director?

RR: Yes. The executive committee was the search committee. I was on the search committee that did the whole process.

MG: Can you tell me about that process?

RR: There was a search firm--a guy named Arnie Miller. Arnie's a great guy who had done a lot of searches for the ACLU and also for a lot of progressive organizations. So he was the one who we hired to do the mechanics of the search. Arnie screened the candidates, and then if I remember correctly, we ended up interviewing--that is, the committee, which I think was like eleven people, we interviewed the finalists and made a decision.

MG: How did the other board members who were not part of that eleven-person committee feel about this decision?

RR: I don't recall anyone being, at that time, being critical of it. I don't know how else you do that process other than with a small group. The Board did ratify Anthony's hiring. I remember when he was first presented to the national board, but I don't recall that there was--put it this way: people who are on the ACLU national board have strong personalities. They are very suspicious of secrecy, as you can imagine. There were people I'm sure who wanted the process to be more open, but in a process like that you can't make it open because you're dealing with personnel issues and you're dealing with individuals and their privacy. So you really can't tell an eighty three member board, "Well, we interviewed A, B, C, and D." You can tell them what the process is. I don't think there was any significant dissatisfaction with how we went about the process.

MG: Can you talk a little more about the decision making process? What about Anthony and his experience made him a good candidate?

RR: I would say that Anthony probably impressed the majority of us right off the bat, with number one, the fact that he had really studied for the interview. He had researched the ACLU. He knew the organization as well as someone from the outside could. I think he had tried to get some background on all of us. He was well versed in the organization and in the challenges. He also had ideas that he thought would be important to move us forward. That impressed us quite a bit. His enthusiasm, his vision, it really stood out right at the beginning.

MG: Can you say what some of those ideas were?

RR: Well I think from the very beginning, a couple things. One, is he did talk about trying to make it truly a national organization and strengthen the affiliates. He also felt that we needed to have a much more vigorous development program, that you couldn't run an organization as important as the ACLU without having a really strong financial footing and you just can't go year to year hoping that you're going to get grants. You have to really build an endowment. That was one of the issues that he thought was important. He also thought it was important to look at our structure, which at that time was fairly--I don't want to say disorganized, but we had projects that also operated autonomously and he felt we needed to look at our overall structure, both in the legal department and the other departments, to try and get them more coordinated.

MG: What has your working relationship with Anthony been like?

RR: It's been close. You know about all the business with "Save the ACLU," and some of the folks that really attacked Anthony personally. I was a supporter of Anthony's and while I felt, like anyone, maybe there had been some errors of judgment, that the attacks against him were unfair and unfounded and were hurting the organization. Since I've become treasurer, we talk quite a bit. I think Anthony uses Susan and to a lesser extent me as someone that he can confide in when there's a delicate personnel issue, which he wants to get some feedback on. We'll talk about it. If there's some type of financial issue that may be coming down the pike, he'll alert me to it and so we talk fairly regularly and have, I think, a good relationship.

MG: Part of the focus of this oral history project is to document how the ACLU changed since 9/11. Before we talk about that, what do you remember about that day?

RR: Yes. It has nothing to do with the ACLU, but I vividly remember it. I was on Nantucket Island. We have a place there and I was actually visiting my niece and nephew. So that morning--I think it was a Tuesday, wasn't it?

MG: Yes.

RR: I flew from Nantucket to Newark Airport. As everyone who remembers that day, remembers it was an absolutely gorgeous, blue crystal clear day. I flew down the Hudson River, right past the World Trade Center at about eight in the morning, as the sun was coming up, and it was spectacular. The towers were gorgeous. Landed at Newark Airport and I went up to the gate. From Newark Airport--well, you were there yesterday--you can see across to lower Manhattan. The first tower had been hit and you could see a little bit of smoke coming out. People were saying that a small plane hit the tower. As we're standing there, the televisions are

on, and people are looking out the windows, you can suddenly see another burst of smoke come out of the second tower. At which point, about five minutes later, police and military people with machine guns all came running into the terminal, and said, "Out, out. Everyone out." They brought us out and sat us down on the sidewalk. I sat down. There was a guy next to me who had his golf clubs and first I tried to call into Manhattan, because my brother lived in Manhattan at the time, but number one, you couldn't get--all the phones were just completely blocked, and also, they had closed all the entrances back into Manhattan. So I couldn't go and stay with him. This guy says to me--he said, "I have a hotel room at the Hilton in Short Hills, New Jersey." He says, "You can stay in my room if you can get us there." I called Hertz and they said, "We have one car left at the Newark Airport." So me and this fellow--they shut down the tramway, so we walk to the rental car place, get in this huge line, and I finally get a car, and we drive out and it's eleven o'clock in the morning by then. The Skyline Drive, which is on the other side of the river, and you look across, and all you could see were two huge pillars of smoke coming out from where the towers had been. So we drive to the hotel. He spends one night and then he's able to get home. I'm still there trying to get back to Atlanta. It's sort of surreal because there were no airplanes flying. I remember sitting in this hotel room looking out over this sort of wooded area and not a plane in the sky. Friday morning comes, and I call Continental, and there's a recording. It says, "The next available operator will be with you in 360 minutes." At which point --it was six in the morning--I went down--still had the rental car--got in the car, and drove all the way back to Atlanta, which was a surreal experience because everywhere on the road there were signs and flags. So that was September 11th. The only other thing is that my youngest son, who was in high school, he knew that I was flying out of Newark and when the news came on, he was completely beside himself. So my wife actually had the sense to drive to school and say, "No, you're dad is okay."

MG: Did you have a sense then how much the ACLU would change?

RR: No. Obviously, we knew that the world had changed and was going to be different, but I think once the PATRIOT Act was introduced and then passed, and passed within a matter of weeks if I remember right--people didn't even read the legislation it was so huge. Then when you got a sense of what the government was willing to do in terms of the whole foreign intelligence, surveillance court, the fact that they had put switches--I remember that the NSA had actually put physical devices in AT&T switches, so that they could divert telephone traffic. All of the surveillance and intrusions, that's when it became clear that the ACLU had to take a real leadership role in that.

MG: How has the organization structurally changed since then?

RR: Well, first of all, I mean, in a lot of ways. One thing Anthony did is he started with our budgeting process where all these different projects were in different little silos and we had schedules, each one separately and it was really hard to figure out where the organization's money was going. Anthony changed our whole financial reporting so that it was much more unified and easy to understand. You could also get a sense of where we were spending our money. Within the last few years, there's been a restructuring so that in the Legal Department. We have these four centers--and I can never remember the names of them--and it's a little bit arbitrary, but they're designed to put projects or activities which are related to each other together. So the Center for Liberty, the Center for Equality, the Center for Democracy, and the Center for Justice, are designed to get those programs to be more cohesive. There's been a real

effort made to coordinate among both the Legal Department and the Communications Department in particular, so that we're messaging consistent with our legal work. The Washington Legislative office, as Congress has become more dysfunctional, it's role has diminished a little bit because it's hard to get anything done, although maybe you can stop some things. Anthony's making an effort and I think the lay leadership supports this, for us to become more active at the state level so that we have more of a presence on the (c)(4) side at the state level, and maybe have a national coordination of political activities. By political, I don't mean partisan. I mean political in the traditional sense. There's been a real effort made to strengthen the Development Department and to put more resources there because we really need to build-- we built an endowment, but you also need to be able to build so that there's a strong donor base and then the affiliate support department as we discussed, has been a major change in the last ten years, and has really strengthened the organization.

MG: Are other ACLU issues being overlooked since 9/11?

RR: No. I don't think so. No. Well, in the gay rights area, obviously with the Windsor case, we made major efforts on equality. That has been a priority for at least ten years. The Racial Justice Project has been a priority, particularly on the criminal justice issue. Over-incarceration is one of our priorities, trying to deal with the disparities in the criminal justice [system], the racial disparities. There's been an effort to deal with this whole private probation, the privatization of our corrections and probation system. The Women's Rights Project--well, the reproductive rights efforts are ongoing. No, I don't think there's been a diminishment of the other work, but there are priorities that have been set. I'd have to get the budget document out to remember them exactly, but racial justice and over-incarceration, LGBT rights, national security, those are probably the three main priorities at the moment.

MG: For the record, can you just say what the Windsor case was about?

RR: It was a challenge to the Defense of Marriage Act, which is a federal statute, which basically says that the federal government will not recognize same-sex marriage. Edie Windsor, who was the plaintiff in the case, was married to her partner, a woman, and I think they were married in Canada. I think that they were married in Canada. Then they lived together, married, in New York, for I don't know--well, they lived together for probably thirty years and then they got married at some point. Then her wife died. Because the federal government would not recognize their marriage, there was a huge estate tax to be paid even though they were legally married in Canada. The court basically struck down the Defense of Marriage Act, and said that because they had been legally married, and had a right under the laws of that jurisdiction, the federal government could not deny them the benefits it would provide to other married couples.

MG: In the post-9/11 period, did you see any changes here in the Georgia affiliate?

RR: I have to say that I was not involved in the Georgia affiliate in those days and that was one of the problems of the affiliate, that people who had been very actively involved were no longer. No one reached out to--and not just me. A number of people who had been very actively involved were no longer involved, and were not made to feel all that welcome. I don't know what was going on here, which is a shame, but I think that's going to change.

MG: Now I am curious about when you joined the board as treasurer.

RR: Let's take a break because I need to just check some things.

[TAPE PAUSED]

RR: I was just looking at our budget. How could I have forgotten immigration? Voting rights is also an issue. You'll talk to Laughlin about voting rights.

MG: Do you mean in the 2000s that was a big issue for the ACLU?

RR: It always has been an important issue. We've had a Voting Rights Project for a long time. It was based in Atlanta. In an effort to try and deal with expenses, it is now based in New York, but the whole voter suppression movement that's been going on in this country with things like voter ID, restricting hours for early voting, restricting absentee ballot access--all those have been issues that have been important in the '90s and now. The fact that the Supreme Court struck down Section Five of the Voting Rights Act means, particularly in the southern states, we have to rethink strategy. [Editor's Note: Section 5 of the Voting Rights Act of 1965 required states to acquire federal approval when changing voting laws. In 2013, the Supreme Court voted five to four to strike down Section 5 by stating that it no longer applied to the contemporary United States.]

MG: Yes, I recently interviewed someone who fought for even just physical access to polls. He could not bring his wheelchair into a place to vote.

RR: Actually, the ACLU has just done a report on disability access to voting.

MG: I want to ask you about becoming treasurer. I know at the same time you were running for President.

RR: I ran for President.

MG: Yes, and you made this very generous decision to run for treasurer instead, according to Susan Herman. She said some lovely things about you. I'm not quite sure how she described it, but she said she had very mixed feelings about running for President because she was running against someone who was very qualified and would have made a great President. Can you talk about that?

RR: [laughter] Well, Susan has been a great President. She's done an excellent job and she's a great public face for the ACLU, much better than I would've been. Yes, I decided when Nadine Strossen decided that she was not going to run again, and some people asked me if I would consider running. [Editor's Note: Nadine Strossen was the President of the ACLU from 1991 to 2008. She is also a law professor at NYU Law School. Susan N. Herman was then elected President in 2008 and currently serves in the position.] I'd been on the executive committee for a long time. We had had a history of contested elections for president. During my tenure, Norman Dorsen never had any opposition, but when Nadine ran there were at least two other people who ran against her. So, I decided to run and we had an election. We did our sort of campaigning, which was basically trying to call eighty-three people. We had a debate in front of the board and Susan won the election. I decided after that that it was not appropriate to run again. We had had sort of a tradition, I think, that once the President gets elected that they're President until they decide they've had enough or something really bad happens, which hasn't occurred yet. So,

when Richard Zacks, who was the treasurer and had been for many years, decided that he was going to leave the board, I think Susan asked me if I would be willing to be treasurer. I said I would. So that's how it happened. We had an election that Susan won. That's clear.

MG: Well maybe talk about what you do as treasurer, a little bit more about your role and responsibilities.

RR: The ACLU is a very complex organization both organizationally and financially. The reason for that is, one, is the source of our income, which is there's membership income, which is shared with affiliates under our sharing formulas. There are grants, large gifts that people give, which are also shared. There are grants that are made by foundations. There's bequest income, which is also shared in various ways. So we have these sources of income and then we have a structure where there's an endowment, which is the Bill of Rights trust, which every affiliate is a participant in, but because it's an endowment, we only draw out a certain percentage that can keep it sustainable. There has to be a determination as to how much is going to be drawn down from that. We have money that's donated, which sometimes is restricted either for purpose--generally, for purpose. So someone might give us a million dollars and say, "Well, I want that to be used for immigrants' rights." So we have these restricted funds. There's what's called Board Designated Funds, where the board decides it's going to set aside money in a certain way. So for example, attorney's fees, those go into a fund and then we appropriate the money out of those funds. Bequest income is the same way. We really don't budget, although we're trying to do better on that from an actuarial point of view. We don't say, "Well, we're going to get five million dollars this year from people dying." Instead that money goes into a fund. Some portion of it is set aside for affiliates and then it gets released. We have this sort of complex--it isn't as though it's just a steady stream of income coming in. We have these complex sources of revenue that get treated in different ways. We also have to deal with certain liabilities, like there's a pension fund, which is a defined benefit plan, which means that you have to have a certain percentage funded in order to meet Internal Revenue Service requirements. That pension is sponsored by the national organization and sits on our books as a liability, but all the affiliates are participants too. So this is a long-winded way of saying that we have interrelations between the affiliates and national in terms of divisions of money and we have various structures that are in place as to how the funds get raised and then get dispersed. Plus we have, I think, 355 national employees. So you have to project what we think membership income is going to be and what we think grant income is going to be, how much we can release from the various restricted funds, and then try and match that against all of the various expenses, which are--you've got building expenses, and personnel is obviously the biggest driver, and personnel-related costs. We've been running a deficit for the last six years, seven years, and the reason is, is that there was a [donor]--he was anonymous for a longtime, but his name is now public. His name is David Gelbaum, and he gave us twenty million dollars a year. [Editor's Note: David Gelbaum, a hedge fund manager and clean technology investor, was revealed in 2009 as the annual twenty million dollar donor to the ACLU. He came out as the donor in a *New York Times* and stated he could no longer make the donation. He had been donating different amounts since the 1980s.] Now he did it anonymously and it was done in such a way that I don't think any of any of the laypeople on the Board knew how much was coming from this one donor because that's the way he wanted it to be. Then when the financial crises hit in 2008, he just wasn't able to make that donation. So we had a huge hole in the budget of twenty million dollars, which meant having to deal with reductions in force and having

to draw down from reserves, while at the same time dealing with this pension liability. So that has been one of Anthony's main goals, and the thing that I am most involved with is us trying to get a sustainable budget where our revenues and expenses are more in line and that we maintain enough reserves so that if we were to have, for example, another great recession, we would be able to weather that for three or four years. I don't know if you've seen it, but we have a very complex budget, and this is just a sample of it. This is just a summary, but we have a very complex budget where we have to figure out what our annual membership contributions, bequest income is going to be and then we have all the expenses by department--affiliate support, communications, legal, Washington legislative development, the executive offices, administration and finance. I chair the finance committee, which works with the staff in developing this budget. Then we have an investment committee that I sit on as treasurer where we have basically 330 million dollars in assets that has to be managed. Now, a big chunk of that is in the Bill of Rights trust, the endowment, but the investment committee engages a professional investment advisor. We currently use J.P. Morgan now. We went through an elaborate request for proposal to see who would be the best asset manager. Before that, the investment committee actually made the investment decisions itself, which was not a wise thing to do. So there's an investment committee that meets at least quarterly with our investment advisors and monitors the performance, and also sets the asset allocation that they then implement. We're now going through a process of trying to select someone to manage our 401K plans for our employees. I also chair a thing called the Financial Structures and Management Committee, which is the committee that develops and then monitors these sharing rules between the national and the affiliates. Now, I will say that we have a Chief Financial Officer, Terence Dougherty--well, Terrance I guess is the Chief Operating Officer, but he's also very heavily involved in finance. [Editor's Note: Terence Dougherty is the Chief Operating Officer and General Counsel of the ACLU. He joined the ACLU in 2005.] We also have a Director of Finance. So there's a whole staff in the administration department that deals that monitors all of this, everything from monitoring daily cash flows to monitoring the investments, to dealing with expenses. There's a staff that does all this, but part of the obligation of a board is to ensure that those activities are being carried out in a prudent manner. So that's my involvement.

MG: I think I am wondering how you have time for all of this.

RR: [laughter] That's a good question. Well, number one, my law firm has been very supportive of my spending time doing this. I just make the time. The other thing is I'm at a point in my career when it's okay for me to ease back on the law part of it.

MG: As treasurer, are you able to get involved still in other aspects of the organization?

RR: Oh, yes. I chaired one of our campaign finance committees within the last few years, which was an interesting experience. One of the interesting things we did is we had a debate between Floyd Abrams, who's probably the leading First Amendment lawyer in the country, and Joel Gora, who is very active in campaign finance reform, debating the issue of what restrictions should you put on campaign finance, consistent with free speech issues. I get involved actively in both the executive committee and at the board on substantive debate. That's what makes it fun.

MG: Forgive me if I have this detail wrong, but you were elected vice president.

RR: Yes.

MG: Can you talk about that?

RR: In the past, the vice president role has been more honorific. I think for the union we have two other vice presidents. I'm the only one for the foundation. The vice presidents, they don't do very much. If there was a situation where Susan was not able to attend a meeting she'd probably asked me to run the meeting. Other than that, it doesn't have any real job function. The treasurer is one that really does have some job functions.

MG: What's your working relationship with Susan Herman like?

RR: Oh, it's very good. We're friends. We've known each other now for thirty years almost. I have a very good working relationship with Susan. She's very generous in involving me and asking for advice and input. I know her husband, who's a great guy. It's a good relationship.

MG: Can you tell me a little bit more about the Rogers & Hardin LLP where you currently work?

RR: This law firm was founded in 1976, I believe. A group of seven lawyers left from one of the larger firms here and started this firm. I joined in 1996. We currently have about forty-five lawyers. Half of the firm--we call it the corporate group. They do transactional work. They do mergers and acquisitions. They do securities issuance. They do other transactional kind of corporate work including corporate governance and then we've got another group, which is a litigation group. Our litigation is primarily on the defense side--anti-trust, some products liability, some professional liability. I represent lawyers and some mental health professionals. We have an employment practice, once again, on the defense side. One of my partners has an intellectual property practice, but our litigation practice--we're known primarily that if you want a small, more efficient, sophisticated litigation practice, we're the ones. We don't have five or six hundred lawyers, so we can do things more efficiently. We have a number of very good trial lawyers. Three of us are fellows at the American College of Trial Lawyers.

MG: There has been a little bit about mental health tie-in to your work, in talks you have given and then in also cases you have tried.

RR: Well, I've represented the Georgia Psychological Association for probably twenty-five years and I represent psychologists and other mental health professionals, primarily in licensing board issues. Every year I do a presentation at the health law seminar on mental health law issues. I co-authored a book, which is now out of print and out of date, called *Law and Mental Health Professionals*. So I've always had a sort of an interest in that area.

MG: I just have a few more questions. How did the rest of your life unfold outside of your work with the ACLU and the law firm?

RR: I have a seven-month-old grandson, who is a cute little guy. Luckily, my son and his wife live here in Atlanta, so we get to see them quite a bit. We had lunch with them yesterday in fact. So that's a lot of fun. My oldest son, who's thirty-four, is just getting his doctoral degree from the University of South Carolina. He's in their School of Hospitality. He is in the food science field, and he's going to start as an associate professor at the University of New Hampshire in



August. My wife is a jeweler. She has a studio and a little shop here, and she has a shop on Nantucket. She's been doing that since she was in high school.

MG: Well, is there anything we are missing or anything you want to say more about your various roles and many years with the ACLU?

RR: Well I would just say that it's been, one, a lot of fun, most of the time. We did have the issues which I alluded to in the 2004, 2005 range, where there was a lot of unpleasantness with people attacking Anthony and attacking those of us who supported him. Putting that aside, being involved with the ACLU has been fun. It's been intellectually stimulating and I think it's been important because in my view, the ACLU is one of the most important organizations in the country. You have to have a voice that's going to--I don't like the speak truth to power phrase, but in some respects that's what it is. It's extremely important that if we're going to have a real democracy that there be a strong organization that's willing to challenge the government and to protect us. The motto that we came up with, safe and free, I think is important. People have to realize that unless we have our freedom, none of this is really worth it. So I think the ACLU has done an incredible job and I've just been proud to be a very small part of it. I have to say that our staff is phenomenal. They are really dedicated smart people and they're the ones who have made all this possible.

MG: What do you see for the future of the ACLU?

RR: I think we're here for the long haul. One of the things that's interesting is that as the right wing and the forces of restricting individual rights, as they get strong, the ACLU does too because you get a lot of, people start getting worried. Given the climate in this country, which is at the moment very unfortunate, and when you think about the people running for President and some of the things that they say, I think the ACLU is going to be here and is going to be strong because there's a recognition among a lot of people that it's needed.

MG: Well, I want to thank you for all the time you spent with me and for your work with the ACLU. This has been a real treat to meet you and get to ask you these questions.

RR: You're welcome. Great. Well, thank you for doing this.

MG: Thank you. If you think of anything you want to add to the record, I'll be here for a few more days or we can touch base in the future.

RR: Okay.

MG: Thank you so much.

RR: Very good. Thanks.

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Reviewed by Molly Graham 7/5/15

Reviewed by Robert Remar 7/5/15