



NYCLU NEWS

NEW YORK CIVIL LIBERTIES UNION SPRING 2008

www.nyclu.org

Published by the New York Civil Liberties Union

Vol. LIV, No. 2

2

Director's Column: It May be an Election Year, But We'll Have Work to do No Matter who Wins

3

Roe v. Wade at 35: New York isn't as Safe as You Might Think

Reproductive Rights Project's Victory for Incarcerated Women

4-5

Suffolk County Chapter Defeats Anti-Immigrant Legislation

Young Professionals Woo New Generation of Civil Libertarians

6-8

Election 2008: Biographies and Statements of Candidates for NYCLU Board of Directors

9-10

Capital Chapter Defends Free Speech

ACLU Membership Conference this June

11-12

Patriot Act Fight Continues

NYCLU Creates New Advocacy Department

NYCLU in Court Over NSA Spying

Arguments About Secret Court Opinion and Warrantless Wiretapping Have Their Day

The NYCLU is challenging the use of sealed court opinions, secret government evidence in the prosecution of two Albany men on charges of money laundering and providing material support to terrorism.

The men, Yassin Aref and Mohammed Hossain, were convicted in October 2006 following an FBI sting operation that involved the National Security Agency's warrantless wiretapping program.

Aref and Hossain, who are Muslim immigrants serving 15-year prison sentences, argued before the trial began that the prosecution was improper because it relied on the illegal surveillance program. U.S. District Judge Thomas J. McAvoy rejected that argument in a secret opinion after reviewing secret evidence and arguments from the government. Not even the defendants' lawyers were allowed to view the opinion or the government's evidence.

The lower court then rejected the NYCLU's effort to have the opinion and government evidence made public. The NYCLU appealed that decision, and at the same time, the defendants

"The courts must not be complicit in President Bush's campaign of secrecy. NSA spying is unconstitutional, and secret opinions only aid the government's effort to keep the illegal campaign hidden away from public scrutiny and outrage."

have appealed their convictions.

The U.S. Court of Appeals for the Second Circuit heard oral arguments in the case on March 24 in Manhattan.

Corey Stoughton, NYCLU staff attorney and lead counsel on the case, asked the three-judge panel to order Judge McAvoy to release as much of his opinion as possible while respecting the need to protect genuine government secrets.

"Secret court opinions are antithetical to the American system of justice," said Corey Stoughton, NYCLU staff attorney and lead counsel on the case. "Especially when there are allegations of unlawful government surveillance and abuse of executive power at play, the public has a right to understand the government's arguments and the courts' justifications for their decisions."

Continued on page 3

State Must Recognize NY Couple's Canadian Marriage

The NYCLU achieved a groundbreaking court victory in February on behalf of a Rochester lesbian couple, who fought to have their valid Canadian marriage recognized in New York.

In a unanimous decision, a New York appellate court ruled that the state must recognize valid marriages of same-sex couples performed in other states or countries. It is the first appellate court decision in the state and the first known de-

"Gay and lesbian couples make the same long-term commitments to each other as straight couples. This case highlights the fact that same sex couples are entitled to the same protection under state law."

cision in the country to hold that a state must recognize a valid same-sex marriage performed outside its borders.

"This is a victory for families, it's a victory for fairness and it's a victory for human rights," said Donna Lieberman, executive director of the NYCLU. "Congratulations to all same-sex couples validly married outside of New York State: You are now husband and husband, and wife and wife. Now we must continue working toward a New York where people don't have to cross state or country lines to get married."

The case, *Martinez v. County of Monroe*, was filed in 2005 in State Supreme Court on behalf of Patricia Martinez, an employee of Monroe Community College in Rochester, seeking health care benefits for her partner, Lisa Ann Golden,

Continued on page 2



Photo by billijo wolf

A Rochester couple celebrates a NYCLU legal victory affirming that New York must recognize valid marriages entered into outside the state. That rule must now be applied to same-sex couples as well.



125 Broad Street
New York, NY 10004
www.nyclu.org

Non-Profit Org.
U.S. Postage
PAID
New York, NY
Permit No. 2723



Words from NYCLU Executive Director Donna Lieberman

No Matter Who Wins the Election, Our Feet are to the Fire

Americans seem to pour all their hopes and dreams into their potential political leaders every election year – especially this one. It's not even presidential convention time and already we've seen record fundraising, record voter turnout and record space in the news cycle devoted to the candidates.

As New Yorkers, though, we know that electing "like-minded" politicians isn't enough.

Though our new governor, David Paterson, has taken a principled stand on a number of key civil liberties issues – supporting meaningful reform of the Rockefeller Drug Laws, standing with us to oppose abusive and bullying military recruitment tactics in our schools, and supporting reproductive rights and access to education – we know that noble sentiments do not automatically transform into government policy. That will require vigorous and effective advocacy by the nearly 50,000 members of the New York Civil Liberties Union and the hundreds of thousands of New Yorkers around the state who believe in civil liberties. If anything, this is a time to step up our advocacy – change won't happen without us.

And for those who think a new leader in the White House will solve our nationwide civil liberties crisis, I have news for you: No matter who resides at 1600 Pennsylvania Ave., we don't have a minute to sit back and relax.

If anything, the end of the Bush regime should be a call to action for civil libertarians. We've now suffered eight years of relentless assault on our most precious liberties – even in the best of circumstances, that

nightmare will take decades to undo. Enormous battles lie ahead, but the ACLU and NYCLU will continue our unrelenting fight for a free and fair society.

The presidential race is, without question, enthralling – even fun to watch. But regardless of who wins the White House, the NYCLU and all allies of civil liberties must be ready to put pressure on the next president and Congress to treat our precious rights with the care and respect they deserve.

Though control of Congress shifted in the last election, we have yet to see Congress stand up to undo even the worst abuses of the Bush Administration.

When the next president says, "America stands against and will not tolerate torture," as Bush said in 2004, we can't let him, her or Congress get away with calling it something else and doing it anyway. Americans know that waterboarding and freezing detainees and hanging them from the ceiling for days on end is torture – and we must do everything we can to stop it. The next president must also restore habeas corpus, stop warrantless eavesdropping, close the prison at Guantánamo Bay and prosecute the detainees there according to principles of due process. Our membership must pressure the president and Congress to offer more than just lip service, and to actually protect civil liberties.

However our elected officials behave, the ACLU will continue to defend and fight to expand our liberties. From issues of personal autonomy – including sex education, abortion and marriage fairness – to political surveillance, government-funded religion and racial justice, the ACLU will continue to use every tool and forum available to convey our powerful message. We will use the wisdom and experience of every ACLU lawyer, the skill and energy of all ACLU legislative advocates, and the grassroots work of every ACLU affiliate, organizer and online activist.

The ACLU is on the ground in all 50 states fighting those who would use the power of the government to dictate its citizens' moral choices.

Here in New York, the NYCLU will lead the

charge to see our state formally reject the Real ID Act – President Bush's plan to create a national ID card and usher in a "your papers, please" society.

We will fight to see reproductive health protections expanded, so that if *Roe v. Wade* is further eviscerated, women in our state will retain access to safe and legal reproductive healthcare.

We will say no to racial profiling and work to shut down the School to Prison Pipeline that so tragically pushes our most at risk youth out of the classrooms where they belong and into the criminal justice system. We will stand up for the rights of lesbian, gay, bisexual and transgender people, rejecting all forms of discrimination and affirming the right of all New Yorkers to marry.

And after more than 30 years of unduly harsh mandatory sentencing guidelines, we will work to finally say goodbye to our state's draconian drug laws. Intended to target major drug traffickers, New York's Rockefeller Drug Laws have instead compelled judges to incarcerate low-level, nonviolent drug users and rip apart communities of color: Blacks and Hispanics comprise more than 90 percent of those currently incarcerated for drug felonies – far out of proportion to their actual involvement with drugs. The state's sentencing scheme has neither curbed drug use nor enhanced public safety. Instead, it has destroyed thousands of lives and wasted limited tax dollars.

To accomplish all of this, it is going to take a growing, strong and vibrant membership. No organization can tackle this diverse array of issues like the NYCLU. And no individual can take your place in supporting our work.

We look forward to working with the next president and with our new governor, but no matter who holds these offices, the NYCLU and ACLU will be there promoting the fundamental principles and values of this nation.

Thank you for your continued support, and get ready to keep on fighting. 🗣️



NYCLU News (ISSN 0746-0801) is published twice a year by the New York Civil Liberties Union, 125 Broad St., New York NY 10004 212.607.3300 www.nyclu.org

Subscription by membership only at \$20 and up, of which 50 cents is for a one-year subscription.

Tom Frey, President; Edwin Lopez-Soto, Vice President; Ronald Tabak, Secretary; Julie Clegg, Treasurer

Donna Lieberman, Executive Director
Nanette Francia-Cotter, Deputy Director
Arthur Eisenberg, Legal Director
Christopher Dunn, Associate Legal Director
Galen Sherwin, Reproductive Rights Project Director
Robert Perry, Legislative Director
Udi Ofer, Advocacy Director / Legislative Counsel
Mary Hedahl, Development Director
Jennifer Carnig, Communications Director
Derrick Shareef, Controller
Ana Vasquez, Office Manager

Capital Region Chapter
Melanie Trimble, Director
90 State St., Albany NY 12207
518.436.8594

Central New York Chapter
Barrie H. Gewanter, Director
753 James St St., Suite 8, Syracuse NY 13203
315.471.2821

Genesee Valley Chapter
Gary Pudup, Director
121 N. Fitzhugh St., Suite 300, Rochester NY 14614
585.454.4334

Nassau County Chapter
Tara Keenan-Thomson, Director
250 Fulton Ave., Suite 514A, Hempstead NY 11550
516.741.8520

Suffolk County Chapter
1 Touro Law Center, 225 Eastview Dr., Central Islip NY 11722
631.423.3846

Lower Hudson Valley Chapter
Linda S. Berns, Director
297 Knollwood Rd., White Plains NY 10607
914.997.7479

Western Regional Office
John A. Curr III, Director
The Ansonia Center, 712 Main St., Buffalo NY 14202
716.852.4033

Jennifer Carnig, NYCLU News Editor
Michael Cummings, NYCLU News Writer

Photo by
Ove Overmeyer

When Monroe County filed a motion to appeal the NYCLU's victory, Rochester residents took their anger to the streets and held several protests.



From page 1

whom she married in Canada in 2004.

The lawsuit asked the county and college to recognize the couple's valid marriage under the state's "marriage recognition rule," the more than century-old law that requires New York State to recognize marriages performed outside the state.

"If a marriage is valid in the state or country in which it took place, New York law generally requires the recognition of that marriage," said Arthur Eisenberg, the NYCLU's legal director. "This case involved a straightforward application of that principle."

The lower court ruled in favor of the county and college. The appellate court reversed that decision, ruling that the marriage recognition rule applies to same-sex marriages. It based its ruling on the fact that New York does not have a law prohibiting the recognition of same-sex marriages and that recognizing such marriages would not violate public policy. It also ruled that the college and county had violated state Human Rights Law by discriminating against the couple based on sexual orientation.

Martinez has been a word-processing supervisor for Monroe Community College in Rochester since 1994. She and Golden have had a committed relationship since 2000. They own a home together, share financial responsibility for each other's needs and share mutual wills.

"Gay and lesbian couples make the same long-term commitments to each other as straight couples," said Gary Pudup, director of the NYCLU's Genesee Valley Chapter. "This case highlights the fact that same sex couples are entitled to the same protection under state law."

Tony Kushner, Tony award-winning playwright and marriage fairness advocate, praised the decision.

"There's still much to do, and a long way to go, but this decision seems to me a significant step forward in securing equal treatment under the law for the LGBT community," he said. "This is why I'm proud to be a member of the NYCLU."

Monroe County issued a press release in February saying it would file a motion of appeal with the Court of Appeals, the state's highest court.

"It is unconscionable that a county executive would waste taxpayer dollars to litigate an issue that would strip families of important protections," Pudup said. "Why would a county official want a family to go without health insurance? This couple is validly married and they are entitled to recognition in New York."

The NYCLU has posted a "frequently asked questions" feature on its Web site explaining the decision and its reach. It answers questions about whether the decision affects adoption, out-of-state civil unions and immigration, among other issues. 🗣️

Reproductive Rights Project Director Galen Sherwin on the Historic Anniversary of *Roe v. Wade*

After 35 Years, New York Not as Safe as We Once Thought

As we celebrate the 35th anniversary of *Roe v. Wade*, the landmark decision that legalized abortion, it is time for us to take a hard look at the state of reproductive freedom, both across the country and closer to home.

New York is one of the few remaining states where abortion is generally accessible; our legislature is not trying to ban it, and the dangerous government restrictions that exist in other states are absent. Many New Yorkers think that no matter what happens nationally, our own laws will continue to protect women's right to make these difficult and complex decisions without interference from the government.

What most New Yorkers do not know is that if *Roe* is overturned everyone is at risk — not only in states such as South Dakota (which has proposed yet another ban on nearly all abortions), but in our own backyard.

Although New York was one of the first states to legalize abortion — it did so three years before *Roe* — our laws have failed to keep pace with the times. Indeed, women in New York derive the right to terminate a non-viable pregnancy or one that seriously compromises their health from *Roe* — not from state law.

We rely on *Roe* to guarantee women the right to obtain an abortion because New York law does not contain any such affirmative guarantee. While New York law allows abortion, it does so in the context of a criminal statute which creates exceptions permitting abortions that are performed within the first two trimesters of pregnancy, or when a woman's life is at risk.

Even though abortion is protected during the first and second trimesters, treating abortion as a crime stigmatizes abortion providers and deters properly trained health care professionals from performing the procedure.

Additionally, the lack of an adequate and explicit health exception for the rare post-second trimester abortion creates confusion, and has prompted cases where hospitals have refused to perform abortions to end high-risk or non-viable pregnancies for fear of prosecution. In one case, a woman whose fetus had just been diagnosed with Trisomy 18, a fatal medical condition, had to fly to Colorado to terminate her pregnancy at 26 weeks, even though the pregnancy was high risk and the fetus was not viable. Unable to face the stress of travel, she stayed in New York and suffered a stillbirth.

The Supreme Court's recent actions make it clear that the foundation of our re-

ROE V.
WADE
TURNS 35

"What most New Yorkers do not know is that if Roe is overturned everyone is at risk — not only in states such as South Dakota, but in our own backyard."

productive rights is on increasingly shaky ground. Last April, the Supreme Court for the first time upheld a federal ban on certain medically approved methods of performing abortion, despite the lack of a health exception. This decision represents a profound setback, not just for women or people who consider themselves "pro choice," but for everyone who believes medical decisions should be made by patients and their doctors, not by politicians. It was also a clear signal that states like New York can no longer afford to rely solely on federal constitutional law to protect our rights and our health.

The federal Freedom of Choice Act, which would reaffirm *Roe* and help prevent further attacks on reproductive freedom, has languished in Congress. But there is a state solution. The Reproductive Health Act, introduced in the state Legislature last year, would provide important protections. While no state bill can exempt New York from federal laws and bans, it can ensure that we maximize state protections.

This bill explicitly affirms the right of women in New York to make their own decisions about whether and when to become pregnant and whether and when to have children. It also ensures that women's health will always be the paramount concern when it comes to state regulation of abortion.

The state Legislature should demonstrate its leadership and commitment to women's health by immediately enacting this legislation. We are grateful for the 35 years of protection provided by *Roe*; the next 35 years appear less certain. We must act now to ensure women's health is protected — for us, our sisters, our daughters and for future generations. 🗣️

NYCLU Study Finds Lack of Standards Impedes Access to Women's Health Care in New York Jails; Prompts State Action

Women incarcerated in New York State are legally entitled to reproductive health care, but few county jails have policies ensuring access to such care, according to a report released in March by the Reproductive Rights Project of the NYCLU.

"Jail officials shouldn't be left to guess when making decisions about the health care of women," said Donna Lieberman, executive director of the NYCLU. "They need clear, comprehensive policies based on law. Otherwise, they are jeopardizing the health of thousands of New York women."

The report, "Access to Reproductive Health Care in New York State Jails," exposes an uneven patchwork of health care policies in the 52 county jails in New York that house women. Those policies often fail to address the most basic reproductive health services, such as pregnancy testing, prenatal care, screening and treatment for sexually transmitted infections or access to abortion services. There are more than 3,000 women in New York State jails at any given moment, with women accounting for more than 25,000 admissions a year.

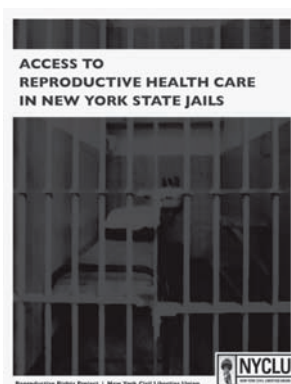
"It's shocking that there are no uniform health care standards for incarcerated women," said Corinne Carey, the report's author and an attorney with the NYCLU's Reproductive Rights Project. "Individual sheriffs and jail officials shouldn't have unbridled discretion over whether thousands of women have access to basic reproductive health care."

Responding to the report, Daniel L. Stewart, State Commission of Correction chairman, issued a memo to county sheriffs and jail administrators advising them to establish comprehensive policies guiding the reproductive health care of female inmates. Stewart's policy recommendations closely mirror those contained in the NYCLU's report.

The NYCLU's report was sparked by the cases of two women who were denied access to abortions while held in county jails. After working with these women, the Reproductive Rights Project researched the reproductive health care policies of all county jail facilities in the state.

Of the 52 counties that housed women, the NYCLU found:

- Fourteen counties responded that their jail facilities had no policies that dealt with any of the issues that we raised.
- No county had a written policy on general OB/GYN care for female inmates.
- No county had any policy or procedure on how to han-



To read the Reproductive Rights Project's new report, *Access to Reproductive Health Care in New York State Jails*, visit our web site: www.nyclu.org/jailreport.

dle the medical needs of women who go into labor.

- Less than half of counties that administer prison facilities for women had policies specifically addressing inmates' access to abortion, and only 23 percent provided for unimpeded access to abortion services.
- Only three counties had specific written policies regarding the use of restraints on pregnant women, and only two of those policies prohibited the practice.

This report contains a series of recommendations that could be immediately implemented at any county jail so that incarcerated women have access to comprehensive health care. Those recommendations, which the State Commission of Correction substantially adopted in the Commissioner's memorandum, include developing policies that would:

- Provide routine reproductive health care including, age-appropriate mammography, screening for STIs and pap tests.
- Ensure prompt access to pregnancy testing, prenatal care and abortion.
- Limit the use of restraints on pregnant women.
- Provide mental health services to women following miscarriage, abortion and birth.
- Prepare for the timely transport of pregnant women to appropriate facilities for labor and delivery.
- Allow women to retain physical custody of their newborns while incarcerated.
- Ensure testing, prevention and treatment of HIV and STIs.

"We applaud Commissioner Stewart for quickly addressing this problem," Carey said. "We look forward to working with sheriffs and other county officials to ensure that these recommendations become standard policy in jails throughout the state." 🗣️

LHV Organizes to Repeal Draconian Sex Offender Law

The Lower Hudson Valley Chapter strongly opposed legislation in Putnam County that would have banned convicted sex offenders from living within 2,500 feet of schools, parks, apartment complexes, theaters, bowling alleys and other places where children congregate.

"The law effectively banned convicted sex offenders from setting foot in the county," said Linda Berns, the chapter's director.

The law, enacted last year, gave convicted sex offenders six months to move out of a "child safety zone" or face fines and imprisonment. It does not distinguish among the various levels of sex offenses.

Berns urged county legislators to reconsider the draconian law, arguing that it violates the Eighth Amendment, which forbids cruel and unusual punishment. She said the law is reminiscent of the medieval practice of banishment. County legislators responded in June by reducing the restricted zone to 1,000 feet. 🗣️

NYCLU Asks Court to Decide if NSA Spying is Constitutional

From page 1

Shortly after the press uncovered the existence of the NSA's warrantless surveillance program in late 2005, *The New York Times* reported that government officials had identified Aref and Hossain's prosecution as one that had been made possible by NSA surveillance. The NYCLU filed a friend-of-the-court brief supporting Aref and Hossain's argument that the government's case is irreparably tainted by its reliance on the NSA's illegal and unconstitutional surveillance program.

"The courts must not be complicit in President Bush's campaign of secrecy," said NYCLU Executive Director Donna Lieberman. "NSA spying is unconstitutional, and secret opinions only aid the government's effort to keep the illegal campaign hidden away from public scrutiny and outrage."

Aref, a Kurdish refugee from northern Iraq, is a former imam at a mosque on Central Avenue in Albany. Hossain, a naturalized U.S. citizen from Bangladesh, owns a pizzeria in the capital city. In the summer of 2003, an undercover FBI informant approached the men about a fictitious plot to procure a shoulder launched missile and assassinate a Pakistani diplomat.

The appeals court has not yet ruled on the case. No date for a decision has been scheduled. 🗣️

Close Guantanamo!



Photo by Ari Rosmarin

On a cold and rainy January morning, dozens of NYCLU members and supporters gathered before sunrise to mark the more than six years of brutality and injustice at Guantanamo Bay. Dressed in orange and wearing t-shirts emblazoned with "Close Guantanamo!", the team joined the crowd for the taping of the CBS Early Show and made their statement to a national audience. The New York City event was part of a week of protest across the country in which tens of thousands of Americans publicly denounced Camp X-Ray.

New chapter director plays critical role in demise of unfair bill

Suffolk County Chapter Leads Effort to Defeat Anti-Immigrant Legislation

The Suffolk County Chapter led the charge to defeating a county lawmaker's latest assault against the local immigrant community.

Legislation proposed by Legis. Brian Beedenbender would have required the county's estimated 15,000 licensed contractors, including electricians, plumbers, roofers, home contractors and asphalt pavers, to verify their workers' legal immigration status. Those who do not would have risked losing their licenses to work in the county.

Seth Muraskin, chapter director, labeled the bill "The Electrician and Plumber Unemployment Act."

"The demise of this bill is a victory for honest, hardworking people, it is a victory for fairness, and it is a victory for American values," Muraskin said. "This legislation would have been an open invitation for employers to discriminate against people who speak Spanish or otherwise appear 'foreign.' Our lawmakers did the right thing by allowing this obvious attempt at political pandering to die."

Hearings on the proposal were held in March. The chapter worked with the NYCLU's Advocacy and Communications departments in developing strategy to oppose the legislation. The NYCLU was instrumental in forming a coalition of business leaders, union members and community and immigrants' rights advocates to denounce the proposal.

"This proposal would have hurt individual contractors, potential consumers, workers and the Suffolk County economy," said Ruth Mulford, vice president of the Metro/Long Island Association of Builders and Contractors, Empire State Chapter.

Jack Morrell, president of the Suffolk County Electrical Contractors' Association, said the resolution wasn't even necessary.

"The county already has agencies, investigators and a violation system in place to enforce health, safety and minimum wage laws," Morrell said. "At a time when Suffolk County is already suffering from a \$100 to \$200 million budget deficit, neither taxpayers nor contractors could afford the legislation."

To help secure the success, the NYCLU led an e-advocacy campaign, sending emails to members who

"The demise of this bill is a victory for honest, hardworking people, it is a victory for fairness, and it is a victory for American values. This legislation would have been an open invitation for employers to discriminate against people who speak Spanish or otherwise appear 'foreign.' Our lawmakers did the right thing by allowing this obvious attempt at political pandering to die."

are Suffolk County residents, and offering them a way to quickly fax their legislators.

Responding to the public outcry, a legislative committee tabled the bill. It lacks enough support among legislators to be removed from the table.

Suffolk has a history of tormenting its immigrant community. Day laborers in Farmingville have confronted racism and vicious treats since the 1990s. A county law passed in 2006 requires contractors to confirm the legal status of their employees, which federal law already mandates. Last year, lawmakers unsuccessfully attempted to criminalize day laborers who stand on county roadways trying to find a job.

The Suffolk NYCLU also is urging the Town of Southampton to repeal its rental law, which provides, in part, that landlords furnish personal information about their tenants to the town. The law also criminalizes the behavior of the tenants and transfer liability for the tenants' actions on to the landlord. This is another in a series of steps taken by the town to root out undocumented workers.

The chapter was instrumental in forcing West Babylon High School stop random searches of its student body. The superintendent capitulated and directed the school's principal to rescind the policy in January, ending the random searches. 🐾

Remembrance:

Steven Engel, Plaintiff in Landmark School Prayer Case

Helped found Nassau County Chapter, served on NYCLU Board of Directors

The New York Civil Liberties Union mourns the passing of Steven Engel, a Long Island parent who mounted a successful legal challenge against state-sponsored school prayer, enshrined in the landmark Supreme Court ruling, *Engel v. Vitale*.

Engel, a founding member of the Nassau Chapter of the NYCLU and an emeritus board member, died in January of heart failure. He was 85 years old.

"It is neither sacrilegious nor antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look to for religious guidance."

"Mr. Engel and his fellow plaintiffs made a principled and courageous stand against state-sponsored religion the public schools," said Donna Lieberman, the NYCLU's executive director. "They had the conviction to take their case all the way to the U.S. Supreme Court, achieving a victory that helped preserve the religious freedom of all Americans. Their contribution must not be forgotten."

Engel and eight other parents of students at Herricks High School in New Hyde Park sued the Commissioner of Education to contest the mandatory daily recitation of the Regents' prayer in the school's classrooms. The prayer, approved and recommended by the State Board of Regents in 1951, invoked God's blessing on the students, parents, teachers and the country.

Represented by the NYCLU, the parents took their case all the way to the U.S. Supreme Court, which decided *Engel v. Vitale* in 1962.

Bill Butler, a volunteer attorney for the NYCLU, represented the plaintiff parents throughout the process and before the Supreme Court.

"It took tremendous courage, commitment and faith to shoulder this burden through the courts over nine years," Butler said. "Steven did not give up despite consistent public criticism and defeat in the lower courts, and for that we are extremely grateful."

Writing for a 6-1 majority, Justice Hugo Black said daily recitation of the Regents' prayer in public schools violated the First Amendment's Establishment Clause, which bars government-sponsored religious activity.

Black emphasized that the court's ruling was not anti-religious but sought to protect individuals' religious beliefs against government intrusion.

"It is neither sacrilegious nor antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look to for religious guidance," he wrote.

The reaction locally was vicious, but Engel and the other plaintiffs stood up for what they knew was right. Engel told *Newsday* that the parents who brought the suit were bombarded with crank calls and obscene and threatening messages calling them Communists and atheists. The assault included the burning of gasoline-soaked rags in the form of a large cross in the driveway of Lawrence Roth, another plaintiff.

"When we won the case, all hell broke loose," Engel told the newspaper. "The dirty letters, the midnight phone calls. I once received a call at work: 'We've got your children.' I took a taxi home from work in New York. I went to the school, but everything was OK."

The lawsuit prompted the creation of the Nassau County Chapter of the NYCLU, which was formed from three local civil liberties clubs that had been active on the north shore, the south shore and mid-island. The other plaintiffs were Daniel and Ruth Lichtenstein, Monroe and Julia Lerner, Lenore Lyons, Lawrence and Frances Roth, and Engel's wife, Thelma. 🐾

Young Professionals: New Generation of Members and Donors

New York City bustles with bright, enthusiastic young professionals eager for opportunities to serve the community. The NYCLU has tapped into this vibrant resource by recently establishing a young professionals group.

The NYCLU Young Professionals is building a community of people between 24 and 40 years old dedicated to preserving civil liberties in New York and throughout the country.

It is the brainchild of Melissa Lee, the group's co-chairwoman, and Molly Galvin, campaign manager for the NYCLU's Development Department.

"I actually contacted Molly about starting this group," said Lee, 28, an NYCLU member who works for Planned Parenthood. "I had worked with and managed Young Professional groups before and felt that the NYCLU was the perfect place to build one. Molly had already been considering the same sort of thing so our coming together was a pretty kismet experience."

Galvin, 30, said students and adults older than 40 are well-represented among the NYCLU's active supporters compared to young professionals.

"We're filling in the middle," she said. "The

Genesee Valley Chapter Scrutinizes Rochester Zero Tolerance Policies

Call for Community Policing After the Rochester Police Department Puts Civil Liberties on the Back Burner

The Rochester Police Department launched a "zero tolerance" crime-fighting initiative last October following a string of murders. The policy has placed Rochester residents under constant suspicion and triggered an alarming rash of stop-and-frisk encounters between police officers and innocent people.

The Genesee Valley Chapter has led a local movement opposing the harsh police practices, voicing residents' fears and frustrations.

"The zero tolerance strategy has less to do with protecting the public than with harassing people into submission," said Gary Pudup, director of the Genesee Valley Chapter. "This type of policing is expensive, historically ineffective and poses a grave threat to civil liberties. There has to be a balance between protecting public safety and upholding civil liberties. Zero tolerance tilts the balance away from civil liberties."

Zero tolerance combines increased police pa-

"People are being stopped-and-frisked without cause. Police routinely stop motorists and search their cars. Any gathering of young people is dispersed without any evidence of wrongdoing."

trols with strict enforcement of all laws and local ordinances. It also leads to thousands of unjustified police stops.

"People are being stopped-and-frisked without cause," said Pudup, a retired Monroe County Sheriff's Police Lieutenant. "Police routinely stop motorists and search their cars. Any gathering of young people is dispersed without any evidence of wrongdoing."

The Genesee Valley Chapter teamed with Metro Justice, a local organization committed to social justice, to host a "Know Your Rights" forum in December that more than 100 people attended. The residents shared stories about being harassed and mistreated by police officers, including disturbing accounts of people being jailed for bogus reasons such as a misapplication of disorderly conduct statutes.

Pudup has met with City Council members to express the NYCLU's concerns about zero tolerance.

There is cause to be concerned about violent crime in Rochester, which had 47 murders in 2007. Much of the crime is associated with gang-related drug activity.

"The answer isn't to make everybody a suspect," said Pudup. "We need to engage in community policing, in which the department builds trusting relationships within community, and we work together to make the streets safe." ❏



Are you a young professional? Want to get involved? Visit www.nyclu.org/yps.

group provides an easy and fun way for my generation to get to know the NYCLU and its work. It's any easy way to get involved and provides a social network of people with common interests."

Lee and Galvin started planning the group in October, hosting brainstorming sessions with the NYCLU's younger staff members. They developed a list of people, including friends and other contacts, who seemed inclined to participate in the group. A kick-off was held in December and drew dozens of people.

The group has utilized Facebook to recruit members and publicize events, and more than 150 people have joined the group's page.

Galvin said the group has about 50 active members, who regularly attend its monthly meetings and help organize its events, as well as two elected officers: Pub-

Lieberman Honored by State Bar with Award for Civil Rights and Social Justice

The New York State Bar Association presented Donna Lieberman its Haywood Burns Memorial Award, honoring her tireless work defending civil rights and promoting social justice for all New Yorkers.

Lieberman accepted the award, which is annually bestowed to an individual who has demonstrated an outstanding commitment to civil rights, in January.

Fernando Bohorquez Jr., chairman of the bar association's civil rights committee, credited Lieberman for expanding the scope and depth of the New York Civil Liberties Union's work during her seven years as its executive director.

"Through her dynamic leadership, the NYCLU has aggressively pursued both litigation and legislative advocacy in order to protect and enhance the civil liberties and civil rights of all people," Bohorquez said. "As a result, the organization is one of the state's leading voices for freedom, justice and equality, advocating for those whose rights and liberties have been denied."

Lieberman was particularly touched to receive an award named for Burns, a scholar and longtime civil rights lawyer who she considers a friend and mentor.

"I'm humbled to be even thought of in the same breath as Haywood," Lieberman said. "He was a warm, gentle and kind man who dedicated his life to justice, peace and equality."

W. Haywood Burns, a former dean of the City

licity Chair Bill Augustin and Secretary Natasha White.

This year has already been busy for the group. In January, they turned out energetic, new supporters for the NYCLU "Taxi to the Dark Side" screening and the New York City Real ID Forum. The group's first official event, "The Big Gay Variety Show," was held March 24 and drew a big crowd. Proceeds from the show, which featured performances by comics and singers, will pay for a bus to drive a delegation of advocates to Albany on April 29 to attend Equality and Justice Lobby Day.

The group's next big project is a large, general fundraising event. Members of the group also organized the March 31 "Voices for Change" concert with Nellie McKay. The group's next big project is a large fundraising event in June that will highlight art and artists.

"Our plan is to hold two big fundraising events a year with a handful of smaller events interspersed throughout to raise money and awareness for the NYCLU's issues and work," said Lee, who co-chairs the group with Daniel Freeman, a Liman Fellow with the NYCLU's legal department. "The group will also serve to continuously build a community of support and engage young people in the mission of the NYCLU." ❏

University of New York School of Law at Queens College, was prominent figure in the civil rights movement. He served as general counsel to Martin Luther King Jr.'s Poor People's Campaign in 1968 and was involved in many prominent civil rights cases, including the defense of inmates indicted in the 1974 Attica prison riots.

Burns established the Urban Legal Studies Program at City College, where Lieberman taught as a fellow during the 1980s. She said working with Burns and the program's students taught her "the difference between book-learning and wisdom."

Lieberman began her public interest legal career as a criminal defense attorney in the South Bronx Office of the Legal Aid Society. She became associate director of the NYCLU in 1988. She established the NYCLU's Reproductive Rights Project in 1990 and served as the project's director until 2000.

Several of Lieberman's friends and colleagues spoke during the reception, paying tribute to her dedication, skilled leadership and sense of humor. May del Rio, a former vice president of Planned Parenthood of New York City and a member of the NYCLU board of directors, applauded Lieberman's contributions to protecting and securing reproductive rights.

"Donna was there if and when we needed her — to provide support, run to court, to tell us not to be afraid," del Rio said. ❏

**BROADWAY
STANDs UP
FOR
FREEDOM**

NYCLU
NEW YORK CIVIL LIBERTIES UNION

Stand UP and Save the Date: Monday, July 21

Watch www.nyclu.org for details.

NYCLU Board of Directors



The annual meeting of the members of the New York Civil Liberties Union will be held on Wednesday, June 11, 2008 at 6 p.m. at the NYCLU offices: 125 Broad Street, 19th Fl., New York, New York, for the purposes of electing directors, receiving the annual report and transacting any other appropriate business.

This is an uncontested election. All of the candidates were nominated by the Nominating Committee.

WHO MAY VOTE

All members whose names appear on the NYCLU membership rolls as of May 28, 2008 may vote. If you have a question about your voting status, please call 212.607.3346.

HOW TO VOTE

NYCLU members may vote either:

- 1) in person, at the annual meeting (the election will take place at 6:30 p.m.).
- 2) by proxy, using any one of the ballots that appear in the following places:
 - printed on page X of this newsletter
 - as a pull-out insert in this newsletter
 - by downloading a ballot at www.nyclu.org/board-elections. (All votes not cast in person must be cast on paper ballots; one CANNOT vote electronically).

IN ORDER TO VOTE BY PROXY

Complete the proxy ballot. Mail the ballot you have filled out to Ronald Tabak, Election Supervisor, New York Civil Liberties Union, 125 Broad Street, 19th floor, New York, NY 10004.

So that we may verify your membership, cut out the address label (listing your name and address) on page 1 of this newsletter and affix it to the outside of the envelope; or, write your name (or both names, if you have a joint membership) and your address legibly on the back of the envelope. You must affix this label, or write your name(s) and address on the back of the envelope in order to provide verification of your membership so that your vote can be counted. (Note: to ensure a secret ballot, do not sign the ballot or put your mailing label inside the envelope.)

CANDIDATES

This year there are fifteen (15) candidates for fifteen (15) vacancies. All vacancies are for three-year terms. In accordance with the NYCLU by-laws, exactly as many candidates as there are vacancies were nominated by the NYCLU Nominating Committee.

Each candidate was asked to supply biographical data and a brief statement of views on NYCLU policies and issues. These are set forth below in alphabetical order. To view lengthier candidate statements, to obtain contact information for individual candidates, or to print out a proxy ballot (one CANNOT vote electronically), please visit www.nyclu.org/boardelections.

AM I A MEMBER?

The NYCLU has nearly 50,000 members statewide, plus many thousands of supporters.

To be a current member, you must have made a non-tax-deductible contribution to the NYCLU—in addition to any tax-deductible donations to the NYCLU Foundation—since March 1, 2007, or you must be a lifetime member.

If you have any questions about your membership status, please call the NYCLU at 212.607.3346.

Daniel L. Alterman

(Nominated by Nominating Committee)

Attorney; NYCLU member for 35 years. Alterman is a partner in the law firm of Alterman & Boop LLP, a small law firm in Lower Manhattan. He has been doing progressive plaintiff side legal work in New York City since 1969 after graduating from NYU Law School. He has also taught, lectured and practiced in New York City for the last 38 years.

I participated in the Attica defense team in Buffalo, challenged pre-trial detention policies in Brooklyn, and represented demonstrators at the Republican National Conventions in Miami in 1972 and in New York in 2004, when I was instrumental in the suit to hold New York City in contempt.

My main reason for seeking re-election to the Board is my children. My wife, LiWah Lai and I have two kids who were NYCLU peer educators and who traveled to schools to talk about privacy, sex education and students' rights to know what they need to make informed decisions.

As a board member, I have worked to make the NYCLU more financially stable, developing a program where art with a civil liberties theme has been made and will be auctioned off or used as a vehicle to encourage and reward new donations to enhance the NYCLU's program work.

Moreover, I have sought to strengthen the chapters and expand membership—especially among youth and the diverse groups who rely on the NYCLU ever more in these difficult times for civil liberties.

Deborah N. Archer

(Nominated by Nominating Committee)

Professor, New York Law School; Director, New York Law School Racial Justice Project; Director, Urban Law Clinic.

Protecting civil rights and civil liberties has been a lifelong commitment. My legal career began as an ACLU Karpatkin Fellow. Following that, I was an attorney with the NAACP LDF before joining New York Law School, where I direct the Racial Justice Project. Throughout, I have worked on cases involving a wide range of issues including education reform, voting rights, indigent defense and employment discrimination.

I am a proud member of the NYCLU, a co-operating attorney for both the NYCLU and the ACLU, and am currently co-counsel in an ACLU challenge to Palm Beach County, Florida's education system. I am excited about this opportunity to serve, given the NYCLU's innovative utilization of legal advocacy, public education and grassroots organizing to effect meaningful change in New York State. If elected, I hope to be part of this critical work, particularly in the areas of indigent defense, educational equality and dismantling the School to Prison Pipeline.

The past several years have been hard times for civil liberties advocates, with administrations and courts hostile to the protections of individual rights. But recent changes in Albany and the promise of change in Washington, D.C. give me some hope. As in past years, I know that the NYCLU will be at the forefront of the efforts to regain rights that have been eroded over the past several years, and to protect our rights in the face of new and evolving challenges to liberty. I look forward to joining you in these efforts.

Elliot H. Auerbach

(Nominated by Nominating Committee)

Physicist (retired); State board member since 2003; Secretary 2005-2006; chair of Election Committee; member of Privacy Committee; Suffolk County Chap-

ter board member since 1980s; Chapter treasurer (currently and in 1990s); Chapter president 1998-2003.

At the present time, the most significant challenges to civil liberties come from an administration that has no respect at all for the Constitution and in particular the Bill of Rights. The NYCLU's aim should be to organize opposition to these actions throughout the state in communities large and small. In addition, due to unfriendly courts, more effort is needed to forward our aims through legislation, particularly on the state level.

Our chapters are a vital asset in these efforts and their effectiveness must be nurtured. The right to vote and to have one's vote counted accurately is essential to legitimacy in a democratic society. We need to oppose any actions by New York State, in the course of revising its electoral machinery, which would hamper voter access or ballot accuracy.

Furthermore, the franchise for all citizens is essential; disfranchisement for any reason needs to be opposed. Honest reapportionment in our state following the next census, including abolition of counting of prisoners in "prison counties" should be part of that goal. Legislation toward that end needs to be in place before 2010.

Rebekah Cook-Mack

(Nominated by Nominating Committee)

I will begin work at South Brooklyn Legal Services as a Skadden Fellow in the Foreclosure Prevention Unit in the fall. I am completing the course work for a joint degree in Law and Public Policy while working for the Brooklyn Family Defense Project of Legal Services New York City.

I am a longtime supporter of the NYCLU and am honored to be considered to serve on its board.

I am an ardent advocate of civil liberties who believes that the Bill of Rights wields its most impressive power when it is debated, explained and invoked. Since these rights are not merely the purview of wealthy adults it is significant that the NYCLU has a long history of engaging youth in the struggle to use and protect these rights. I was a middle school student when I first encountered the NYCLU as a participant in one of its many programs designed to educate and engage New York City's public school students in learning about and exercising these rights.

Today, with over-policing rampant on the streets and in our schools, the NYCLU's work is even more critical. The NYCLU has responded to this challenge both in and out of the courtroom. Challenging times call for creative measures and the NYCLU has demonstrated a commitment to leave no stone unturned. From litigation to "Know Your Rights" guides, legislative advocacy to high quality research and reporting, the NYCLU does it all. I would be honored to serve on the board of this vital organization.

Anthony Feldmesser

(Nominated by Nominating Committee)

Attorney and NYCLU/ACLU member since 1988; Director (1993-2003, 2005-present); Vice President (2002-2003). Committees: Executive Committee (1997-2003), Audit & Oversight Committee, Board Task Force on Police Brutality, Constitutional Convention, Cameras in the Courtroom, Executive Director Search (2001), Chair, Committee on Judicial Selection, Lasker/Callaway Award, Long Range Planning, Nominating, Police in Schools. Delegate/delegation coordinator, ACLU Biennial Conference (1999, 2001, 2003) Author of Blueprint for Action for response to the Republican National Convention, 2004.

NYCLU Board of Directors



From page 6

I feel fortunate for the opportunity to be a part of the NYCLU Board and to contribute in meaningful ways to the advancement of individual rights, especially freedom of expression and privacy. I am committed to our staff and to the maintenance of a strong state-wide organization so we may continue our momentum in both repairing and broadening our constitutional protections. To keep this critical energy, I believe that we must redouble our efforts in the coming years to grow our program in what will be a difficult economic environment.

If re-elected, I will continue to use my experience as an advocate in both the lesbian and gay community and the legal profession to support our increasingly important mission. I stand with our staff and my board colleagues to further encourage the engagement of the new voices of our changing New York State community.

Peter Gollon

(Nominated by Nominating Committee)

Retired business executive, former physicist; NYCLU board member, former NYCLU treasurer, Suffolk County Chapter president.

I first joined the ACLU when it defended those who wanted to march in opposition to the Vietnam War. For the last 20-odd years I have been on the NYCLU and Suffolk Chapter boards, and served as NYCLU treasurer. I currently serve on the Finance, Chapter and Privacy committees.

The NYCLU is again successfully opposing those in government who equate criticism of its policies with "aiding our enemies," and is educating the public that those who would trade some of their liberty for greater security through the PATRIOT Act may end up with less of both. We – along with our national "parent" ACLU – have been successfully opposing government spying and secrecy in the name of national security. The more we learn about what the government is trying to keep secret, the clearer it is that the main purpose of secrecy is to prevent public scrutiny and criticism.

Nationally, and especially in Suffolk County, the current mania is immigrant bashing. This goes beyond appropriate attempts to enforce immigration law, and involves midnight raids by local authorities with an "arrest first, ask questions later" mentality regarding anyone who looks Hispanic, even if he or she is a U.S. citizen. Needless to say, we oppose such strong-arm tactics.

To succeed, our work must reach the greatest number of citizens by being carried out in a coordinated fashion, both centrally and locally in chapters throughout the state.

Janice Goodman

(Nominated by Nominating Committee)

Attorney; current board member.

My hero, Eleanor Roosevelt, once said: "I have spent many years of my life in opposition and I rather like the role," which captures completely my dedication to the NYCLU and my desire to continue to serve as a member of its Board of Directors.

The ongoing assault on our civil rights and civil liberties calls upon us to lift our voices in opposition and the NYCLU is the perfect organization through which we can be heard. I believe my growing experience as a Board member allows me to play a significant role in this struggle to preserve our constitutional rights.

This year I was honored to be elected to the Executive Committee of the board which provides the opportunity to help lead our organization in solidifying our structural soundness and increasing our civil liberties activities. In addition, last year I chaired the Board Retreat Committee which brought Board members together with staff to enhance our working relationships, and thereby strengthen our organization. I also continue to serve on the Legal Committee.

I was born an activist, grew up to be a free-

dom fighter in the southern movement, marched with the feminists in support of women's rights and am now a civil rights lawyer. I want to continue to dedicate myself in opposition to those who trample on our civil liberties.

Michael J. Hall

(Nominated by Nominating Committee)

Dutchess Community College, instructor; ACLU-Nebraska president 1996-2003; ACLU-NE first vice-president 1996; ACLU-NE treasurer 1995-1996; Delegate to ACLU Biennial Conference 1999 & 2001; ACLU-NE board member 1995-2003.

For 88 years, the ACLU has been guardian and defender of our most precious rights and freedoms. I am proud to have been a part of that undertaking serving seven terms as President of the Nebraska ACLU affiliate. That experience provided me an understanding and appreciation for the role each individual affiliate plays in maintaining a vigilant watch over their respective states.

I greatly respect the responsibility each affiliate board holds and I have always found the strength and zeal of arguments presented by civil libertarians to be invigorating. I am also well aware that a group of passionate activists may at times not see eye to eye on every issue. I am an individual that strives to work collaboratively in the best interest of the cause. Those with whom I may not agree today may be my partners tomorrow.

Throughout my life, I have consistently endeavored to make a difference in our world. In addition to my civil liberties work, my passions include pursuing equality for the GLBTQ community, protecting the interests of labor, and advocating for children and education.

Regrettably, the NYCLU and ACLU are needed now, more than ever, to take on the threats presented to the constitutional rights of all Americans. I have long been aware of the exemplary service the NYCLU provides the citizens of New York and hope I will be able to lend my energy, voice and skills to the cause as we continue into the future.

George Kannar

(Nominated by Nominating Committee)

Professor of Law, SUNY-Buffalo; ACLU: Karpatkin Fellow (1978-79), Staff Attorney (1979-86); NYCLU Board since 2001.

No organization in America performs a more important civic function than the ACLU and NYCLU. As new technologies and external threats place steadily increasing pressure on our rights to liberty, equality and privacy, the NYCLU's long and principled record of having resisted similar pressures in the past makes it especially valuable, not just as a source of legal representation – but as a uniquely credible voice for freedom. Even the most welcome of changes to our political leadership in Washington will not diminish the NYCLU's importance. And such positive changes are, of course, never lightly to be assumed.

My own board work, as a member of the Legal Counsel committee, has recently focused on improving our internal democratic processes, by working to increase voter turnout and NYCLU-sponsored opportunities for board-candidate communication. Last year, voter turnout tripled. Another challenge facing the NYCLU is the need to develop a stronger grass-roots presence throughout the entire state. Current efforts by the board's Chapter and Statewide Presence committees to do that will likely make the role of the board's sole representative from Western New York an especially important one during the next few years.

As a former ACLU staff member, I have considerable experience with the NYCLU's institutional culture and workaday needs – not to mention the most profound respect and affection for it. I hope very much to put all that to continuing further use.

Deborah Karpatkin

(Nominated by Nominating Committee)

Civil Rights Attorney. Director, 1990-; Executive Committee, 1992-; Previously: Secretary, Vice President.

Contributions in most recent term as Director:

- I served on the Executive, Legal and Governance committees, and took principal responsibility for drafting and bringing to enactment the policy creating our Board Audit and Oversight Committee.

- When subject matter policies came before the Board, I focused our deliberations on civil liberties policy considerations.

- I worked to bring appropriate sensitivity to Board governance and fiduciary obligations, mindful of oversight while avoiding "micro-management."

- I worked to bring newer Board members into leadership, and to develop and support our newest members.

I also serve as volunteer attorney or co-counsel for the NYCLU and other affiliates. I continue as co-counsel on *Lown v. Salvation Army*, Establishment Clause and employment rights litigation arising from the government funding of The Salvation Army. I represent military conscientious objectors, as lead counsel with the NYCLU, the ACLU-National Capital Area and the ACLU of Southern California. Each case achieved a successful outcome for the conscientious objector client. The NYCLU case also resulted in attorneys' fees awards to the NYCLU.

The NYCLU's extraordinary staff has worked hard to expand our organizational capacity to respond to the extraordinary civil liberties challenges we have faced in recent years, and those we know we will face in years to come. Civil liberties board stewardship is a precious responsibility. If re-elected, I will continue my civil liberties stewardship as your director for another term.

Mohamed Khater

(Nominated by Nominating Committee)

Software consultant; current member of the NYCLU Board.

During my current term as an NYCLU board member, I participated in all board meetings, and have been active in the Chapter Committee that works on enhancing the relationship between the central office and the chapters.

I have been active in the community for a long time and serve on the boards of several community organizations. I became more involved in civil liberties issues after the attacks, in the past few years, on the civil rights and civil liberties of various segments in our nation – especially the Arabs and Muslims. In the name of national security and fighting terrorism, we saw various laws and government tactics that started to eradicate and curtail the rights granted by the Constitution and by all human rights declarations.

I value the NYCLU's commitment to fight for fair and just treatment for everyone especially the alienated, the underprivileged, the disabled and the poor and above all to defend the Bill of Rights and the Constitution.

I welcome the opportunity to continue to contribute to this good fight.

Alexis McGill

(Nominated by Nominating Committee)

Incumbent board member; Executive Director of Citizen Change.

I am a political strategist specializing in organizing young people of color around political par-

NYCLU Board of Directors



From page 7

ticipation.

As my term on the board expires, I am reflecting on the enriching and rewarding experience serving the NYCLU. To the best of my ability, I have satisfied my financial and attendance obligations to the board. During my last three years, I have served on the nomination, development, and one time 'branding' committees. I have also served in an advisory capacity to the Executive Director and her staff on marketing strategies and building relationships to constituent communities. In the last month, I worked with the development staff to provide a free screening of *Taxi to the Dark Side*, a film on the United States' role in torture, during its opening weekend for the membership.

Our work has become ever more relevant under the current administration on both the national and local level. Whether it is protecting reproductive rights, fighting abuses under the Patriot Act, or the potential criminalization of young people by increased police presence in schools, the NYCLU has been at the vanguard of the struggle to protect our rights. I have been proud of my membership and activism and the leadership of this organization. I sincerely hope you will consider re-electing me again to this board.

Arlene Popkin

(Nominated by Nominating Committee)

Incumbent. Currently on Legal and Election Committees. Chair of the Lower Hudson Valley Chapter. Criminal defense lawyer.

I've been a member of the Civil Liberties Union since I was a teenager, and I've done everything from arguing appellate cases to sweeping the floors and taking out the garbage. I would be glad and honored to be re-elected.

Despite the hostility of the government and many courts, I believe we should be actively working to expand the understanding and scope of protected rights. Right now, the rights of persons living in New York who are not citizens of the United States are particularly imperiled, and inadequately defined. It is important that the Civil Liberties Union lead on these issues. Others involve the rights of people society tries not to think about – people whose minds or bodies are not quite what others consider "normal," people whose personal lives and preferences do not match up with "Leave it to Beaver," people who are, or have been imprisoned.

I believe it should be a priority for the NYCLU to work to cause the fundamental American idea – that people have the same rights whether they agree or disagree with the majority or with the government – to be taught in public schools at all grade levels.

On the budget front, thanks to the incredibly offensive crew in Washington we're in pretty good shape right now. I think we should work to ensure that, if the current contribution level drops, we will be able to maintain a high level of program activity.

Vera M. Scanlon

(Nominated by Nominating Committee)

Attorney, Beldock Levine & Hoffman LLP.

I am pleased to be considered as an NYCLU Board candidate. For the past six years, I have primarily litigated employment, police abuse and First Amendment cases. Before that, I litigated commercial cases and clerked.

This legal experience will help me contribute to the Board's policy development and oversight roles. While recently working on two cases that relate closely to pending NYCLU demonstration cases in federal court, I admired the quality of the NYCLU's counsel's work, particularly their creative efforts to push the frontiers of the law to protect civil liberties.

As a litigator, I appreciate the importance of the rigor of the NYCLU's litigation and the com-

PROXY VOTING INSTRUCTIONS

COMPLETE THE PROXY BALLOT

Mail the ballot you have filled out to Ronald Tabak, Election Supervisor, New York Civil Liberties Union, 125 Broad Street, 19th Floor, New York, N.Y. 10004. So that we may verify your membership, cut out the address label (listing your name and address) on page 1 of this newsletter and affix it to the outside of the envelope; or, write your name (of both names, if you have a joint membership) and your address legibly on the back of the envelope. You must affix this label, or write your name(s) and address on the back of the envelope in order to provide verification of your membership so that you vote can be counted.
(Note: To ensure a secret ballot, do not sign the ballot or put your mailing label inside the envelope.)

ABOUT THE BALLOT

There are fifteen (15) candidates for fifteen (15) positions.
NOTE: There are two columns of boxes. If you have a single membership, mark only boxes in the first column. If you have a joint membership (indicated by a mailing label on this newsletter with both names on it), you are entitled to two votes and can vote by marking boxes in both columns. To view lengthier candidate statements and to obtain contact information for individual candidates, please visit www.nyclu.org/boardelections.

PROXY BALLOT

TO: Ronald Tabak, Election Supervisor
NYCLU • 125 Broad Street, 19th Floor, New York, NY 10004

You are hereby authorized as my proxy to cast my votes as indicated at the annual meeting of the New York Civil Liberties Union to be held on June 11, 2008 at 6 p.m. at the NYCLU offices, 125 Broad Street, 19th floor, New York City for the election of directors, with the same power I would possess if I were personally present.

Daniel Alterman	<input type="checkbox"/>	<input type="checkbox"/>
Deborah Archer	<input type="checkbox"/>	<input type="checkbox"/>
Elliot Auerbach	<input type="checkbox"/>	<input type="checkbox"/>
Rebekah Cook-Mack	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Feldmesser	<input type="checkbox"/>	<input type="checkbox"/>
Peter Gollon	<input type="checkbox"/>	<input type="checkbox"/>
Janice Goodman	<input type="checkbox"/>	<input type="checkbox"/>
Michael Hall	<input type="checkbox"/>	<input type="checkbox"/>
George Kannar	<input type="checkbox"/>	<input type="checkbox"/>
Deborah Karpatkin	<input type="checkbox"/>	<input type="checkbox"/>
Mohamed Khater	<input type="checkbox"/>	<input type="checkbox"/>
Alexis McGill	<input type="checkbox"/>	<input type="checkbox"/>
Arlene Popkin	<input type="checkbox"/>	<input type="checkbox"/>
Vera Scanlon	<input type="checkbox"/>	<input type="checkbox"/>
Gemma Solimene	<input type="checkbox"/>	<input type="checkbox"/>

plementary nature of its non-litigation work, especially its education projects. I have served as an active member of my high school's alumnae association executive board; the alumni programs of the Jesuit Volunteers Corps, a one-year full-time service program; and the New York City Bar Association's Special Committee to Encourage Judicial Service, which seeks to increase diversity in the New York judiciary.

I believe that it is important that the NYCLU maintain a significant presence in the national and local civil liberties debates of our time, in part by serving as a facilitator of sometimes difficult inter/intra-constituency dialogues. My involvement with various New York City nonprofit groups, especially its social justice faith communities, will help me to encourage these unifying conversations with the NYCLU.

Gemma Solimene

(Nominated by Nominating Committee)

Current board member; Clinical Law Professor; legal intern (Summer 1985).

I have served as a board member for the past

three years and have been honored to do so. I have taken my duty as an NYCLU board member seriously throughout my tenure and wish to continue to serve the NYCLU in that capacity for another term.

As a native New Yorker and a member of the legal profession, I am keenly aware of the important work that the NYCLU undertakes to protect our civil rights and liberties. I truly appreciate the part I am able to play in helping to ensure that the NYCLU's work and legacy can continue and welcome my renomination to the Board.

My work with the NYCLU began as a young law student when I had the privilege of working at the NYCLU after my first year of law school. From there, I continued my work in fighting for what I believe is just. I have always been a legal advocate for those without a voice: As a lawyer for The Legal Aid Society and now as a professor leading Fordham University School of Law's Immigrants' Rights Clinic and working on a reentry project with the Feerick Center Social Justice Clinic. I believe in the importance of preserving and expanding our civil rights and civil liberties. As a member of the Board I would diligently commit my energies to NYCLU's work.

Capital Region Stands Strong for Free Speech, Artistic Freedom

The Capital Region chapter rushed to the defense of free speech in Troy after city officials there shut down an arts and media center on code violations after the debut of a controversial art exhibit there.

The Sanctuary for Independent Media was ordered closed on March 11, a day after the opening of

“Public officials cannot selectively and unfairly enforce building codes simply to shut down an art exhibit they find distasteful.”

Iraqi-American artist Wafaa Bilal’s video game and art installation, “Virtual Jihadi.” The exhibit is intended to provoke thought about the roots of violence, but it angered some who believe it is sympathetic to terrorism.

Robert Mirch, the city’s public works commissioner and majority leader of the Rensselaer County Legislature, was among those upset by the artwork. Mirch, who oversees code enforcement, led a protest in front of the Sanctuary’s building the day the exhibit opened. The next day, the building was ordered closed.

The Sanctuary had been in the process of renovating the 106-year-old building. The city had not cited it for violations prior to the exhibit’s opening.

Representatives of the Sanctuary contacted the Capital Region chapter, which helped coordinate media outreach, organize a public protest and solicit the help of a local civil rights attorney.

“Public officials cannot selectively and unfairly enforce building codes simply to shut down an art exhibit they find distasteful,” said Melanie Trimble, chapter director. “Such behavior would be an abuse of power and wholly inconsistent with the First Amendment right to free speech.”

Trimble helped organize a rally at Troy City Hall protesting the closing of the exhibit. Cooperating attorney Peter Henner filed a request under the Freedom of Information Law for records pertaining to the building’s closure.

“The public has a right to know what motivated the sudden decision to shutter the center,” Trimble said. “This is an important case, and we will see it through to the end.”

A Winning Formula: Wine + Cheese = Nassau Success

The Nassau chapter is spreading its message and attracting support from the comfort of members’ living rooms. It has sponsored a series of house parties introducing Long Islanders to the organization and its mission.

The parties promote the NYCLU in many ways. They increase the organization’s membership and visibility in the community. They also broaden its base of support, raise interest in its issues and boost fundraising.

“They’ve a great success,” said Tara Keenan-Thomson, Nassau Chapter director. “The parties provide a relaxed, comfortable environment to discuss our issues and attract new members.”

Host a party! Call the Nassau office at (516) 741-8520.

The parties have focused on racial bias in the justice system and the NYCLU’s effort to reform the state’s draconian Rockefeller Drug Laws. Discussion topics will change as new issues arise.

Hosts are asked to invite friends, family and neighbors who are not NYCLU members. They also provide the refreshments. The parties have been as simple as coffee-and-cookies, as formal as a full dinner, or somewhere in between. It is up to the hosts.

The Nassau staff helps plan the parties and provides guest speakers. The chapter will print invitations for hosts to drop in the mail. The hosts are asked to follow up the mailing with phone calls.

Since the parties also serve as fundraising events, invitations suggest “giving levels” starting at \$50 or include a “bring your checkbook” reminder.

The chapter has recruited hosts through its e-newsletter and by word-of-mouth.

Criminal Justice in a State of Emergency

NYCLU Requests Immediate Court-Ordered Action to Address State’s Broken Public Defense System

The NYCLU is seeking immediate emergency relief in the five counties named in its landmark lawsuit to force much-needed reform of New York’s broken public defense system.

In a motion for preliminary injunction on March 27 in State Supreme Court in Albany, the NYCLU asked the court to compel the state to immediately ensure people accused of crimes in Onondaga, Ontario, Schuyler, Suffolk and Washington counties are assigned effective counsel if they cannot afford a lawyer.

In November, the NYCLU and the law firm of Schulte Roth & Zabel LLP filed a class action lawsuit that charged the state with failing to uphold its constitutional duty to provide effective assigned counsel. But while the case is pending, poor people accused of crimes are routinely denied their constitutional rights and forced to languish in jails without meaningful access to an attorney.

“At this moment New Yorkers are being denied justice simply because they are poor,” said Donna Lieberman, executive director of the NYCLU. “We look forward to a full solution to this systemic problem, but with lives on the line we can’t afford to sit back and wait. Immediate action is necessary.”

The preliminary injunction seeks emergency relief to ensure that all criminal defendants are appointed a competent, knowledgeable attorney with sufficient time and resources. It must also:

Implement standards and procedures to ensure that attorneys appointed to represent indigent criminal defendants have sufficient qualifications and training;

Establish caseload and workload limits to ensure that public defense attorneys have adequate time to devote to each client’s case;

Guarantee that every eligible indigent criminal defendant is assigned a public defense attorney within 24 hours of arrest who is present at every critical proceeding and consults with each client in advance of any critical proceeding;

Ensure that investigators and experts are available to every public defense attorney for every case in which an attorney deems that investigative or expert services would be useful to the defense; and

Establish uniform written standards and procedures for determining eligibility for the assignment of a public defense attorney.

The November class action lawsuit charges that the lack of adequate funding, oversight and statewide standards denies New Yorkers accused of crimes their lawful right to competent, qualified and timely representation at all stages of the justice process. Plaintiffs are defendants in the five named counties who have encountered these problems, but the lawsuit seeks statewide reform on behalf of all defendants who cannot afford a lawyer.



Photo by Pete Kane

Attorney Corey Stoughton, NYCLU’s lead counsel on the case, takes questions from reporters during a November press conference about New York’s outdated public defense system.

Currently, huge caseloads and a lack of sufficient staff and resources overwhelm court-appointed lawyers across the state. Some lack the necessary experience and training to competently handle their cases.

As a result of these deficiencies, many individuals facing criminal charges appear in court without a lawyer at critical junctures. Many public defense lawyers fail to: meet or consult with clients at critical stages in their cases; investigate the charges against their clients or hire necessary forensic experts; file necessary pre-trial motions; and provide meaningful consultation before clients accept plea bargains, even when there is a viable defense.

“The public defense crisis in New York is unfair both to defendants and to the lawyers who are charged with representing them,” said lead counsel on the case, NYCLU Staff Attorney Corey Stoughton. “Defendants are denied justice because they cannot afford to pay private lawyers, and public defense attorneys are not given the resources, tools and training they need to do right by their clients.”

The failure of the public defense system is no secret. It has been documented over several decades in dozens of reports by legal advocacy organizations, professional associations and government commissions. A commission appointed by Chief Judge Judith Kaye concluded last year that the state’s public defense system was “severely dysfunctional” and “structurally incapable” of providing people effective legal representation.

Radio Civil Liberties Back on the Air, Web

Radio Civil Liberties, the NYCLU’s weekly radio show in Buffalo, has returned to the airwaves after a six-month hiatus, finding a new home on the dial at WBBF AM 1120.

The show, produced by the NYCLU’s Western Regional Office, can be heard live on the radio every Saturday at 11 a.m., or downloaded anytime by visiting nycluradio.org.

Radio Civil Liberties has been on the air since 2004. Over the years, the weekly show has featured guests as varied as rap artist Chuck D., Cindy Sheehan, Daniel Ellsberg and Howard Zinn.

A mix of reporting about New York and na-

tional issues, the show explores topics such as voting rights, free speech, the separation between church and state, military recruiting efforts in public schools and whatever else is generating headlines.

“We want to empower our listeners so that they can be the force of change that will enable our state and nation to live up to its promise of liberty and justice for all,” said John A. Curr III, the show’s host and director of the Western Regional Office.

Recent broadcasts included a report on the NYCLU’s effort to prevent the implementation of the Real ID Act in the state, which featured audio from a public education forum on the implications of the federal law held in January in Manhattan. That same broadcast also featured a discussion of the Reproductive Health Act, proposed legislation that would strengthen New York’s abortion laws for the 21st century.

Shows have also featured topics such as the School to Prison Pipeline, female inmates’ access to reproductive health care in New York jails, and the Foreign Intelligence Surveillance Act (FISA).



To listen to Radio Civil Liberties, visit www.nyclu.org/radio.



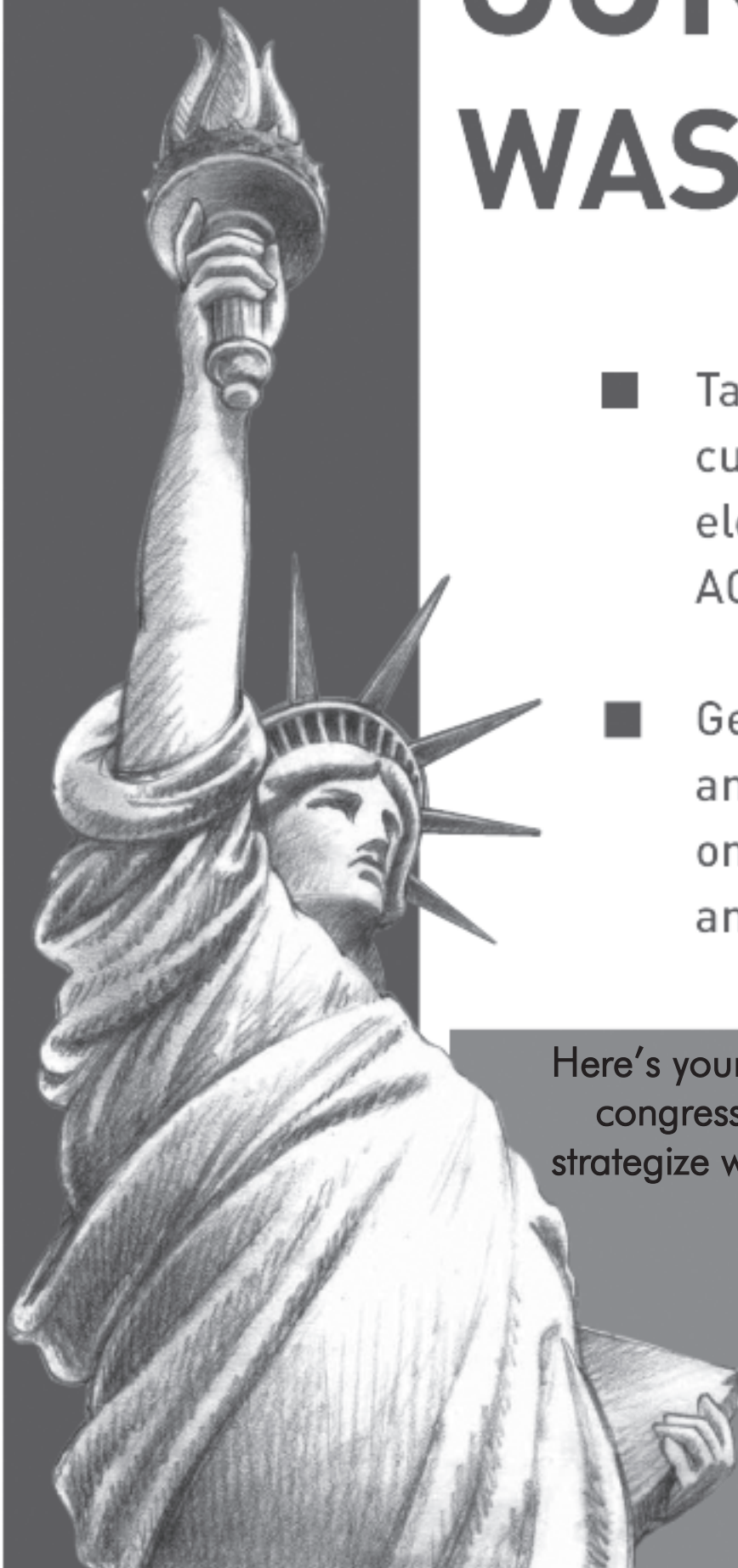
ACLU

AMERICAN CIVIL LIBERTIES UNION

MAKE YOUR
VOICE HEARD.
STAND UP AND STOP
THE ABUSE OF POWER.

JUNE
8-10
2008

STAND UP FOR FREEDOM ACLU 2008 MEMBERSHIP CONFERENCE WASHINGTON DC



- Take part in discussions with current Supreme Court Justices, elected officials, celebrities, ACLU staff and many others
- Get hands-on training and participate in activist workshops on Free Speech, Privacy, Human Rights and more

Here's your chance to meet face-to-face with New York's congressional leaders as you network, socialize and strategize with civil liberties activists from your community and throughout New York State!

Scholarships available for youth 25 and younger.

Visit www.nyclu.org/conference for more details and to register TODAY!



NYCLU

NEW YORK CIVIL LIBERTIES UNION

NYPD Must Produce Videos of Protesters

A federal court ruled in February that the NYPD must turn over records of its videotaping practices in a case that questions whether police in New York City are routinely recording and photographing individuals engaged in lawful political protest.

The decision is the latest round of the decades-old federal case *Handschu v. Special Services Division*, which has resulted in a series of court orders regulating police surveillance of political demonstrations and activities. The NYCLU is co-counsel in the case.

The production of these documents will show whether the NYPD is systemically violating the Handschu guidelines for police-surveillance of political activity by routinely videotaping political demonstrations even in the absence of any reason to believe that criminal activity had occurred or was imminent.

"Individuals should have the right to engage in political protest without fear that their image will appear in a police videotape or their photo will end up in a dossier at NYPD headquarters," said Arthur Eisenberg, legal director of the NYCLU. "This case is designed to secure that right."

Jethro M. Eisenstein, one of the plaintiff's counsel, said the decision has "broad significance" because the judge confirmed that the lawyers for the plaintiff class may challenge NYPD policies that disregard the Handschu guidelines.

The Handschu case, a class-action lawsuit filed in 1971, began as a challenge to police monitoring of political activists. Various police practices were disputed, including the maintenance of dossiers on activists and the use of undercover and surveillance techniques to monitor the activities of individuals and political organizations. It aimed to balance the right to political expression with the state's interest in protecting public safety.

The guidelines were set in 1985 by a consent decree that prohibited the police from investigating political and religious organizations unless it has "specific information" that a crime is being – or was as about to be – committed. The decree also established a system of record-keeping and procedures for approval of investigations by a three-member body.

The decree's rules were weakened in 2003 when U.S. District Judge Charles Haight Jr. granted the city's request for more leeway to investigate and monitor political, social and religious groups. After 9/11, the city had argued that the rules were too restrictive and needed to be modernized to prevent terrorism. The city promptly abused its new authority by videotaping political protests, treating every such gathering as a terrorist threat. In 2007, Haight ordered the NYPD to stop videotaping people at public gatherings unless there is a clear indication that unlawful activity will occur. 🐼

Central New York Says No to Censorship in Local High School

The Central New York Chapter confronted censorship at a school district in the Southern Tier, clinching an important free speech victory for youth and LGBT allies. The episode in Tioga County demonstrates the chapter's work advocating for free expression and students' rights.

Heathyre Farnham, a 10th grade student at Spencer-Van Etten High School, south of Ithaca, was sent home from school in September for wearing a "gay? fine by me" T-shirt. Barrie Gewanter, chapter director, worked with an NYCLU staff attorney to represent Farnham.

Gewanter and staff attorney Matt Faiella contacted the district in early October about the incident. Subsequently, Gewanter delivered a presentation to the high school's faculty on students' First Amendment rights. The following day, the school district's attorney publicly admitted that the censorship was a mistake. Gewanter addressed the school board that evening, calling on the district to deliver a message directly to students that would re-affirm the students' rights to free speech and free expression.

Two weeks later, after additional advocacy by Gewanter and Faiella, a statement was broadcast over the school's public address system assuring students that they may display controversial or political messages, including messages supportive of lesbian, gay, bisexual and transgender people. The school district also issued Farnham a private apology.



The NYCLU posted this billboard outside an Albany-area mall after a customer was arrested for wearing an anti-war T-shirt. The billboard then became the subject of investigation.

Billboard Starts as Comment on Controversy, Ends Up at Center of It

A federal appeals court heard arguments this March in the NYCLU's challenge of a state Lobby Commission policy requiring advocacy groups to report a wide range of activities that have nothing to do with lobbying.

The NYCLU filed the lawsuit in November 2003 after the commission launched an investigation of an NYCLU-sponsored billboard advocating the freedom of expression. The billboard was posted outside an Albany-area shopping mall after a patron was arrested there for wearing an anti-war T-shirt. It read, "Welcome to the mall. You have the right to remain silent. Value free speech."

The commission based the investigation on a policy that requires advocacy groups to report to the government on an assortment of non-lobbying activity. That policy had triggered a similarly baseless lobbying investigation of a City Hall rally in Manhattan sponsored by hip-hop mogul Russell Simmons and the Hip-Hop Summit Action Network demanding reform of the Rockefeller Drug Laws.

The state abandoned the investigation after the lawsuit was filed, but the policy behind that investigation remained in place, and the NYCLU continued its challenge.

Without deciding the constitutionality of the policy, the district court dismissed the case because the billboard investigation had ended. The NYCLU appealed that ruling.

Associate Legal Director Christopher Dunn argued the case before the U.S. Court of Appeals for the Second Circuit on March 7 in Brooklyn.

Dunn asked a three-judge panel to declare the commission's policy unconstitutional.

"Our position is simple," said Dunn. "Advocacy that is protected by the First Amendment, like the NYCLU billboard, and that is not lobbying is not the business of state lobbying authorities. Under the First Amendment, we all are free to hand out flyers, write letters to the editor, publish newsletters, or write books without having to report to the Lobbying Commission and risk invasive investigations into our advocacy." 🐼

"It's difficult enough to be a teenager without having to deal with government censorship or unwarranted police threats. Helping young people understand and defend their rights is an important aspect of our work in the CNY region."

"Heathyre displayed enormous courage in refusing to surrender her First Amendment rights or the rights of her classmates," Faiella said. "These students stand behind an inclusive message of free speech and civil liberties, and I that's exciting to see."

Gewanter also has also delivered a series of "know your rights" presentations at the "Q Center," a safe and supporting gathering space for LGBT youth in Syracuse.

She has spoken to youth about workplace rights, discrimination laws, banned books, and students' rights. Her latest presentation was on voting rights and the electoral process.

Gewanter also intervened in the Chenango village of Sherburne, on behalf of area youth and parents, after a police officer entered a local teen center and threatened to arrest any of the youth who were found on the streets after the 11:15 p.m. These youth have every right to be out at night, or to travel to and from the center, if they have the permission and support of their parents.

"It's difficult enough to be a teenager without having to deal with government censorship or unwarranted police threats," Gewanter said. "Helping young people understand and defend their rights is an important aspect of our work in the CNY region." 🐼

NYCL...YOU

Meet Activist Ayesha Syed

Ayesha Syed, 27, is president of the NYCLU's campus chapter at Touro Law Center. She is a native of Malverne, New York and a longtime member of the NYCLU.

What drew you to get involved in with the NYCLU?

It first caught my attention at an anti-war protest in the city. The group appealed to me because it provides an organized and consolidated way to express dissent in a time when public opinion is being ignored on so many issues that matter to me.

What civil liberties issues are you particularly passionate about?

A few are the suspension of habeas corpus and detention without trial, ethnic profiling, erosion of privacy through things like Real ID, warrantless searches and surveillance, and LGBT equality.

How do you find time for activism?

School and work take up most of my time of course, but work affords a means to live comfortably in the world, in a nice place, reliable car, but I can't really live comfortably in the world such as it is socially and politically, so that's where the activism comes in.

What is most satisfying about being an NYCLU activist?

I guess it's selfish but it is making friends with NYCLU members. The ones I've met so far are motivated, thoughtful, and still feel empowered enough to try for change. They're the ones who don't give up. 🐼



Become an NYCLU E-Activist. Visit www.nyclu.org.

Fighting to Ensure End to Patriot Act Provision

What is a National Security Letter?

Various federal statutes authorize government investigators to compel individuals and entities to produce financial, credit or communications records upon certifying that these records are relevant to international terrorism or counter-intelligence investigations. Investigators specify the documents being demanded by delivering National Security Letters to the custodians of the records.

For example, a federal statute authorizes the FBI to issue NSLs to compel communications firms, such as Internet service providers or telephone companies, to produce customer records whenever the FBI certifies that those records are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities."

The legislation authorizing the FBI to issue NSLs was enacted in 1986 as part of the Electronic Communications Privacy Act. The 1986 statute generally provided that the government could not obtain stored electronic communications without the consumer's permission unless the government had a subpoena, warrant or court order.

The NSL provision was an exception to this general rule. It allowed the FBI to compel the production of documents relevant to foreign counter-intelligence information without seeking judicial approval in circumstances where it could certify that it had "specific and articulate facts giving reason to believe" that the documents pertain to "a foreign power or an agent of a foreign power." Over the years, Congress reduced the conditions that needed to be satisfied before the FBI could issue an NSL. And in the USA Patriot Act, adopted in September 2001, Congress eliminated the requirement that NSLs be limited to investigations of a "foreign power" and substituted a provision allowing the use of NSLs for any "investigations of terrorism or clandestine intelligence gathering."

An NSL issued under the Patriot Act was brought to the attention of the NYCLU in 2004. It contained a blanket prohibition directing the recipient of the letter that he could not publicly disclose that he received the FBI's demand for documents.

In a court brief filed in March, the NYCLU asked a federal appellate court to uphold a lower court decision striking down the National Security Letter (NSL) provision of the Patriot Act. The provision gives the FBI the authority to issue letters demanding private information about people within the United States, and to impose an indefinite gag order on the recipients of the letters.

"The district court was right to find that the FBI can't be given the power to impose unreviewable gag orders on the recipients of national security letters," said Arthur Eisenberg, NYCLU legal director. "The FBI's power to silence the recipients of these letters must be subject to judicial oversight. Without that oversight, the FBI can misuse its power to conceal abuse and silence its critics, which is exactly what it's been doing."

Also in March, the Department of Justice's Office of the Inspector General (OIG) released a report revealing widespread, systemic abuse of the NSL power by the FBI. The report showed that the FBI issued tens of thousands of NSLs in 2006. Among other abuses, the FBI misused NSLs to sidestep the authority of the Foreign Intelligence Surveillance Court, according to the report. In one instance, the FBI issued NSLs to obtain information after the FISC twice refused its requests on First Amendment grounds.

The OIG also found that the FBI continues to impose gag orders on about 97 percent of NSL recipients and that, in some cases, the FBI failed to sufficiently justify why the gag orders were imposed in the first place. An earlier OIG report detailing privacy breaches and misuse of NSLs between 2003 and 2005 led the FBI to issue new guidelines for use of the letters in June 2007.

The brief relates to a lawsuit the NYCLU and ACLU filed in April 2004 on behalf of an Internet Service Provider (ISP) that received an NSL. The lawsuit was filed under seal because the FBI imposed a gag order on the ISP, and even today the NYCLU and ACLU is prohibited from disclosing its client's identity. The FBI continues to maintain the gag order even though the underlying investigation is more than four years old and may have ended, and even though the FBI abandoned its demand for records from the ISP over a year ago.

The lawsuit, now called *Doe v. Mukasey*, challenged both the FBI's power to demand records without judicial oversight and its power to impose gag orders on NSL recipients. Judge Victor Marrero of the U.S. District Court for the Southern District of New York struck down

"The district court was right to find that the FBI can't be given the power to impose unreviewable gag orders on the recipients of national security letters. The FBI's power to silence the recipients of these letters must be subject to judicial oversight.

Without that oversight, the FBI can misuse its power to conceal abuse and silence its critics, which is exactly what it's been doing."

the NSL statute in September 2004, ruling that the FBI could not constitutionally demand sensitive records without judicial review and that permanent gag orders violated the First Amendment guarantee of free speech. The government appealed the ruling, but Congress amended the NSL provision before the court issued a decision. The NYCLU and ACLU brought a new challenge to the amended provision, and in September 2007 Judge Marrero again found the statute unconstitutional. The government appealed.

The FBI has used its gag power to censor court filings in the NYCLU's case and to shield even innocuous information from public view.

"These efforts," said Eisenberg, "extend well beyond protecting classified information and reflect an intention to suppress criticism of government overreaching."

For example, the government once redacted from an NYCLU brief the statement that the gag order was "an irresponsible invocation of national security to justify unnecessary secrecy." In a declaration filed by John Doe, the government redacted the statement that "the public should be able to monitor how the government is using [its Patriot Act] powers so that it can police against possible abuses." The government even once redacted language taken directly from a Supreme Court opinion, "the danger to political dissent is acute where the Government attempts to act under so vague a concept as the power to protect 'domestic security. Given the difficulty of defining the domestic security interest, the danger of abuse in acting to protect that interest becomes apparent." ■

NYCLU Unveils New Advocacy Department

With offices located throughout the state, the NYCLU is in a strong position to influence public policy everywhere in New York. To harness this strength, the organization has created an Advocacy Department that is coordinating statewide campaigns to reject attacks on civil liberties.

The department is responsible for grassroots organizing, public education, coalition building, online activism and direct lobbying of lawmakers. It will work closely with the NYCLU's chapters and regional offices, which have engaged in grassroots organizing and public education for decades.

Legislative Counsel Udi Ofer is director of the

Team of organizers will support regional chapters with grassroots work, public education efforts

advocacy department. Ofer traveled the state in December, meeting with the chapter and regional directors.

"The greatest unrealized opportunity in this organization is its statewide reach through the chapters," said Ofer, who has more than four years experience organizing advocacy campaigns out the New York City office. "We have sophisticated litigation and lobbying initiatives. A strong statewide advocacy operation is a

natural next step."

Robert Perry, legislative director, said the statewide advocacy initiative will strengthen the organization's legislative lobbying.

"It's not good enough to have a lobby visit in Albany," Perry said. "We need people around the state reaching out to legislators in their districts and saying, 'These issues matter to me.'"

Ari Rosmarin, the new statewide campaign coordinator, said the organization's 48,000 members could be a wellspring of grassroots activism.

"Our membership is a sleeping giant, and I think there is a real opportunity get members more engaged in our advocacy work," Rosmarin said. "We will give them a chance to organize in their communities and play a personal role in defending civil liberties."

Ofer said the advocacy department will focus on two or three major issue campaigns a year. It already has launched a statewide campaign opposing implementation of the Real ID Act, a federal law that would establish America's first-ever national ID system. It is assembling a diverse coalition of organizations and interest groups from all backgrounds and political leanings that share an opposition to Real ID.

With support from the Advocacy Department NYCLU chapters and regional offices hosted community forums in Rochester, Long Island, New York City and Buffalo where expert panelists informed residents of the law's many threats to New Yorkers' privacy and liberty.

Seth Muraskin, Suffolk Chapter director, welcomes the addition of the advocacy department; saying it arms him with additional resources to tackle the issues facing his chapter, the state and the country.

"With the advocacy department's help, we've been able to get a conversation going on Long Island about Real ID," he said. "Their resources and expertise and my knowledge of the area gives us the tools to execute effective advocacy campaigns." ■



Help the NYCLU continue to fight for individual freedoms and democratic principles. Help us advance a civil liberties agenda in Albany. Help us ensure your freedom and the freedom of every New Yorker.

In the coming year we will:

- Reform the Rockefeller Drug Laws
- Defeat Bush's Real ID Act
- Guarantee women's reproductive freedom
- Ensure poor people receive meaningful legal representation

Enclosed is my check payable to the **NYCLU Foundation** in the amount of:

\$500 \$250 \$100 \$50 Other _____

NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

Please charge \$_____ to my AmEx Visa MasterCard

CARDHOLDER NAME _____

ACCOUNT # _____ EXP DATE _____

SIGNATURE _____

New York Civil Liberties Union, 125 Broad St., 19th Floor, New York NY 10004
Tel: 212.607.3300 Fax: 212.607.3329

N0801