Windsor Win: Court Strikes Down Defense of Marriage Act

When Thea Spyer proposed to Edie Windsor in 1965, she got on bended knee and asked Windsor to spend the rest of her life with her. In place of a traditional engagement ring, Spyer presented her love a diamond broach so that Windsor wouldn’t face questions at the office. At the time, not only did the prospect of their being able to marry seem impossibly remote, but Windsor feared that her career at IBM would suffer if she were “outed.”

Little did they know that 48 years later, their relationship would take center stage in the national struggle for fair marriage laws. This spring, the U.S. Supreme Court will hear argument in Windsor v. United States, Windsor’s challenge to the so-called “Defense of Marriage Act” (DOMA) – the discriminatory 1996 law that defines marriage for all federal purposes as a legal union between one man and one woman as husband and wife.

Following a 42-year engagement, Windsor and Spyer traveled to Canada in 2007 and finally exchanged wedding vows as they had always longed to do. When Spyer died in 2009 after a long bout with multiple sclerosis, Windsor inherited the couple’s Manhattan apartment. As a married couple, Spyer’s estate normally would have passed to her spouse without any estate tax at all. But because DOMA prevents recognition of the otherwise valid marriages of same-sex couples, even though New York recognized their marriage, Windsor had to pay more than $363,000 in federal estate taxes.

Challenging New York’s Reliance on Solitary Confinement

The use of solitary confinement in New York State prisons is inhumane, arbitrary and unsafe, according to a groundbreaking NYCLU investigative report released in October. The report, Boxed In: The True Cost of Extreme Isolation in New York’s Prisons, kick-started an intensive advocacy campaign to achieve major reforms that will increase prison and public safety by ending the state’s destructive dependence on extreme isolation – among the harshest punishments our society can impose on an individual.

“New York must end its inhumane and harmful use of extreme isolation,” said NYCLU Senior Staff Attorney Taylor Pendergrass, co-author of the report. “This destructive practice endangers the individuals subjected to its cruelty and the corrections staff guarding them. It wastes taxpayer money, makes our prisons and communities less safe, and degrades our state’s historic commitment to basic human decency.”

The report is the culmination of an intensive, year-long investigation that involved extensive communication with more than 100 people who have spent significant amounts of time – in one case, more than 20 years – in extreme isolation. The authors interviewed prisoners’ family members and corrections staff, and analyzed thousands of pages of Department of Corrections and Community Supervision (DOCCS) records obtained through the state’s open records laws.

Historic March to Protest Stop-and-Frisk Abuse

NYCLU Executive Director Donna Lieberman and the Rev. Al Sharpton lead thousands of New Yorkers down Manhattan’s Fifth Avenue during the Father’s Day March protesting the NYPD’s abusive stop-and-frisk practices. (Image courtesy of Donna Aceto.)
A s the NYCLU reflects on 2012, we have more than 50,000 reasons to be thankful – all of you, our faithful members, supporters and e-activists who make us the organization we are and allow us to have the impact that we do. You and the rest of our 50,000 strong are the reason we accomplished so much and how we know that 2013 will be even better. And we needed you this year.

The last several months tested us in an unprecedented way. We all breathed a collective sigh of relief when Hurricane Sandy left town and all of our colleagues were accounted for and safe immediately. We saw the scale of the storm’s damage, and we learned that our offices were flooded. In Sandy’s wake, the resiliency of our state and our people inspired us. New Yorkers turned to each other to overcome the pain and destruction of the storm from Long Island to Staten Island to Lower Manhattan, where the main NYCLU and ACLU offices are located. The NYCLU is often in the habit of helping others in trouble. This time we were the ones in need – and the law firm of Skadden, Arps, Slate, Meagher and Flom, LLP stepped up and immediately provided us temporary offices in its building at 1460 Broadway. We thank the law firm for its generosity.

Despite our displacement, the NYCLU never missed a step defending and protecting your rights and liberties. For example, in the storm’s immediate aftermath, we even managed to file and win a lawsuit in Dutchess County that allowed scores of local college students to vote in the presidential election. Read more about that victory on page 7.

As the pressure mounted trying to meet all those tight, court-appointed deadlines under the most challenging circumstances possible, election results in Alabama encouraged us. Non-partisan as we are, the shifting winds in the State Senate reduce the likelihood that the NYCLU will need to spend resources challenging bare-bones schemes like abortion restrictions and marriage discrimination, and instead focus on pushing forward with an affirmative progressive agenda. And we’re excited about what we’ve done and what’s to come. As you’ll read in these pages, we are on the verge of passing at least some of the Community Safety Act, a package of four bills before the New York City Council that will help curb discriminatory policing and improve police accountability. We’re equally proud of our ground-breaking “Stop and Frisk Watch” app, a first of its kind resource to document the human toll of unjustified street stops. Read about both on page 5, and download the app at www.nyclu.org/app.

We’re excited that the Supreme Court will take on the NYCLU's central legal rights to protect transgender and gender non-conforming residents from discrimination in employment, housing and public accommodations, such as restaurants, hotels and stores. And as we hope Albany will act on it and make this the year the Legislature finally passes the Gender Expression Non-Discrimination Act. We’re excited that the Supreme Court will take on our challenge to the discriminatory federal Defense of Marriage Act. It’s an honor and privilege to serve as co-counsel to 83-year-old plaintiff Edie Windsor, who has sued the government for refusing to recognize her marriage to her late, beloved spouse, Thea Spyer. Read more about the case on page 1.

And we’re excited to secure major prison reforms in the year to come. In 2012, we sued to end the deplorable conditions – verified by an inspection that documented the rampant medical neglect in Nassau County jail. We also exposed, through an unprecedented report, the arbitrary and tested use of solitary confinement in New York State prisons and how the practice harms prisoners and prison staff and decreases prison and community safety. Read the prison observers’ handwritten letters documenting the horrors of extreme isolation at www.BoxedOutNY.org and learn more about the NYCLU’s work on page 1.

Our affirmative agenda also includes passing the Reproductive Health Act, which would guarantee a woman’s ability to control her own reproductive health; that a woman will be able to access abortion care if her health is endangered; that the regulation of abortion is treated as an issue of public health, rather than as a potential crime; and it will guarantee that every New Yorker has the right to use or refuse contraception.

Likewise, we must secure basic labor protections for our farmworkers. Though they form the backbone of the state’s $3.6 billion agricultural industry, New York farmworkers are still denied basic labor protections, such as the right to overtime pay, to a day off and to workers’ compensation if they are injured on the job. There are an estimated 80,000 to 100,000 farmworkers in the state. They work extremely long hours, perform back-breaking work and earn incomes well below the poverty level. It is time to end this injustice through sensible and humane reforms.

Finally, if there has ever been a moment for comprehensive immigration reform, this is it. The results of the presidential election seemed to finally wake both parties to this critical issue. We know it won’t be easy or simple, but we cannot ignore the civil rights and liberties crisis in New York and across the country. This is the time to make sure everyone’s rights are protected.

And as it always has, our effectiveness on all of these issues is in your hands. Whether we have the resources we need to accomplish our work depends on you. If you raise your voice and take action, it vastly improves our chances of achieving progressive reforms on a host of issues that we know you’re passionate about.

We barely missed a beat when Sandy knocked us around, but the NYCLU never slowed down as we continued our work. We need you to continue your support now more than ever. Let’s make 2013 the year for change we really can believe in.

Follow @JustAskDonna and @nyclu on Twitter.

From NYCLU Executive Director Donna Lieberman’s Desk

More Than 50,000 Reasons to be Thankful

Syracuse Extends Basic Civil Rights Protections to transgender People

Thanks in part to the tireless advocacy of the NYCLU, transgender individuals now possess the same civil rights protections in Syracuse that other residents often take for granted.

In a 7-1 vote on Nov. 19, the Syracuse Common Council passed legislation amending local civil rights law to protect transgender and gender non-conforming residents in employment, housing and public accommodations, like restaurants, hotels and stores.

“The Common Council has reaffirmed our city’s commitment to respecting the civil rights and basic human dignity of all residents,” Barrie Gwenter, director of the NYCLU’s Central New York Chapter, said. “Nobody should be denied service at a doctor’s office or fired from a job because of the way they express their gender.”

The Central New York Chapter led a year-long effort with local LGBTQ community leaders to secure the bill’s passage.

Every large city in New York State now has enacted civil rights protections for transgender and gender non-conforming individuals. Buffalo, Rochester, Albany, Binghamton, Ithaca, New York City as well as Westchester, Suffolk and Tompkins counties have similar local anti-discrimination laws.

The passing of the Syracuse bill builds momentum for the Gender Expression Non-Discrimination Act (GENDA) – verbatim language that would explicitly prohibit discrimination against transgender and gender non-conforming people. GENDA has passed the Assembly on several occasions only to stall in the State Senate.

“New York State needs to declare with a unified voice that it will not tolerate people losing their ac-

cess to care, housing and to public accommodations simply because of who they are,” NYCLU Executive Director Donna Lieberman said. “Our lawmakers must stand up for fairness by supporting GENDA, which will extend legal protections to all transgender and gender non-conforming New Yorkers.”
Inaccuracies, Bias Plague Sex Ed in New York State Public Schools

We found lessons that contained glaring inaccuracies about basic anatomy, reinforced negative gender stereotypes, and stigmatized LGBT students and families.

Consider these disturbing examples:

- A school district in the North Country defined the vagina as a “sperm deposit.”
- A district in western New York used a handout portraying women as “hazardous material.”
- A district in the Capital Region mentioned same-sex attraction as a cause to seek “counseling.”

Many school districts do little to educate students on how to protect themselves from sexually transmitted infections and sexual assault.

All of the most commonly used textbooks teach abstinence-only strategies for preventing pregnancy and sexually transmitted infections—meaning they do not mention, let alone teach students about, condoms or contraception. While 80 percent of districts teach something about condoms, only a third actually teach students how to use them properly.

“It’s shocking what passes for sex ed in some New York classrooms,” said NYCLU Assistant Advocacy Director Johanna Miller, an author of the report. “We found lessons that contained glaring inaccuracies about basic anatomy, reinforced negative gender stereotypes, and stigmatized LGBT students and families. Many districts don’t educate students on how to protect themselves from sexually transmitted infections and sexual assault. Rigorous, binding statewide standards are essential to fix these rampant failures.”

More than half of the school districts did not acknowledge, much less discuss, sexual orientation, and only 17 percent discussed gender identity or transgender people. A worksheet used in one district explained same-sex attraction under “Taboo Definitions.”

Lessons and role-playing exercises nearly uniformly assumed boy-girl pairings. Only five districts in the entire state used materials that acknowledged same-sex parents, even though New York has legalized same-sex marriage and an estimated 18,000 married same-sex couples live in the state.

HIV instruction, required by state law since 1987, is

Landmark Challenge to State’s Public Defense System Heads to Trial

Following a marathon fact-finding process involving more than 60 depositions and the review of hundreds of thousands of pages of documents, the NYCLU’s landmark class-action lawsuit challenging New York State’s failed public defense system, Hurrell-Harring v. State of New York, is heading to trial.

Throughout the summer and fall, a team of more than 20 attorneys and paralegals from the NYCLU and our partners at the law firm of Schulte, Roth & Zabel logged in long hours crisscrossing the state to meet the court’s Nov. 30 deadline to complete discovery. A trial could begin this year.

While we are excited for the chance to argue our case in court, the truth of the matter is that our elected leaders could make a trial unnecessary by initiating much-needed reform,” said NYCLU Senior Staff Attorney Corey Stoughton, lead counsel in the case. “Governor Cuomo has proven that he has a strong sense of justice and of how to improve government. He should address this decades-long injustice, then we are confident that our courts will be able to bring some justice to all those that have been unfairly deprived of it.”

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Federal Judge Declares Unlawful 2004 Republican National Convention Mass Arrests

In an important victory for the right to protest, a federal judge ruled in October that the NYPD engaged in unlawful mass arrests and fingerprinting of hundreds of peaceful protesters during the 2004 Republican National Convention in Manhattan.

“The court emphatically rejected the city’s claim that it could make mass arrests of protesters after officers observe individual unlawful activity,” said NYCLU Associate Legal Director Christopher Dunn, who is lead counsel on the Convention cases. “With this ruling, the truth of the matter is that our elected leaders could make a trial unnecessary by initiating much-needed reform,” said NYCLU Senior Staff Attorney Corey Stoughton, lead counsel in the case. “Governor Cuomo has proven that he has a strong sense of justice and of how to improve government. He should address this decades-long injustice, then we are confident that our courts will be able to bring some justice to all those that have been unfairly deprived of it.”

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New York’s counties lack the resources needed to provide the poor competent legal counsel. In courtrooms across the state, people are forced to face judge and prosecutor without a lawyer present. When court-appointed lawyers do appear, they are swamped by heavy caseloads and unable to investigate accusations or properly counsel clients on their rights.

A functioning system not only would ensure that the right people go to jail; it would prevent taxpayers from footing the bill for unnecessary prosecutions and the consequences of unnecessarily long delays in trials and excessive incarceration.

“It has been shown time and again that New York’s public defense system delivers second-rate justice,” NYCLU Executive Director Donna Lieberman said.

“But if our elected leaders are unwilling to end the decades-long injustice, then we are confident that our lawsuit will result in long-overdue reform.”

As of Dec. 17, the NYCLU returned to its Lower Manhattan offices. Our phone system should be functioning, but if you have any trouble reaching a specific person, please call (212) 607-3300 for our receptionist.

Please visit our website for the latest updates.

www.nyclu.org
Lawsuit, Report Challenge New York State’s Use of Extreme Isolation

From page 1

A website – www.nyclu.org/boxed-in – accompanied the report’s release. It features excerpts of prisoners’ letters about life in extreme isolation, a library of DOCCS data and records, statistical analyses and a video featuring the voices of family members whose loved ones have been held in extreme isolation. The lawsuit challenges DOCCS’ policies that give prison officials virtually unfettered discretion to impose lengthy sentences to isolation.

“In New York State, extreme isolation is often a disciplinary tool of first resort,” said former NYCLU legal fellow Scarlet Kim, co-author of the report. “People spend weeks, months and even years cut off from human interaction and rehabilitative services for non-violent, minor misbehavior. The process for determining who is sent to extreme isolation is arbitrary – there is virtually no guidance or limitations on who can be sent to extreme isolation, for what reasons, or for how long.”

In 2011, New York issued more than 13,500 sentences to isolation – about one for every four people incarcerated statewide. About 8 percent of New York’s prison population is in isolation at any given time, the vast majority for non-violent offenses. Only 16 percent of isolation sentences from 2007 to 2011 were for assaults or weapons. We spoke with a prisoner who spent five months in extreme isolation for refusing to return a food tray, and another who got four months for getting a homemade tattoo.

In isolation, individuals are confined for 23 hours a day in a cell about the size of a parking spot. Almost all personal property is forbidden. Meals arrive through a slot in the door. There are no vocational or educational classes. An hour of “recreation” is spent in empty pens that often resemble dog kennels. These conditions cause grave emotional and psychological harm, including severe depression and uncontrollable rage. For the vulnerable, particularly those suffering from mental illness, extreme isolation can be life-threatening. The deprivation of necessities, such as food, exercise and basic hygiene, intensifies the suffering.

About a third of New York prisoners in extreme isolation are “double-celled” with another prisoner. In other words, DOCCS puts two strangers in a tiny cell and subjects both to severe deprivation. Double-celled prisoners are locked up together — showering and defecating in front of each other — for weeks, months and even years.

Every year, 2,000 people are released from isolation in New York State prisons to the street, without transitional support, education or rehabilitative programs to support the return to productive, independent life.

Other states, notably Maine, Colorado and Mississippi, have reconsidered and reformed their use of extreme isolation – and report greater or stable institutional safety along with significant economic savings. The NYCLU recommends that New York end its dependence on extreme isolation by adopting stringent reforms to identify prisoners who should not be held there and returning them to the general prison population.

Achieving these reforms tops our 2013 legislative agenda.

“Gov. Cuomo and DOCCS Commissioner Brian Fischer could implement these reforms starting tomorrow,” said Pendergrass. “Doing so would finally bring an end to a disastrous and unnecessary decades-long human rights crisis, and put New York where it should be: at the vanguard of smart and effective criminal justice reforms that both improve public safety and reaffirm our state’s commitment to human dignity.”

New York City Widow Heads to Supreme Court

From page 1

Windsor decided to challenge the law in court.

“That law violated the fundamental American principle of fairness we all cherish,” Windsor said. “I know Thea would have been so proud to see how far we have come in our fight to be treated with dignity.”

Windsor’s lawsuit was filed by the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, the ACLU and the NYCLU. The lawsuit argues that DOMA violates the equal protection guarantee of the U.S. Constitution because it requires the government to treat same-sex couples who are legally married as strangers.

In October, a federal appeals court ruled that section three of DOMA unconstitutionally discriminates against married same-sex couples. The court held, in the first federal appeals court decision to do so, that government discrimination against gay people gets a more exacting level of judicial review, called “heightened scrutiny,” that requires the government to provide justifications for the law that are substantially related to an important government interest. The court found that DOMA’s defenders did not offer any reason that passes this heightened scrutiny for treating married same-sex couples differently from all other married couples.

“Edie and Thea’s home state of New York has long respected the marriages of same-sex couples and explicitly supports the freedom to marry,” said Mariko Hirose, NYCLU staff attorney and co-counsel on the case. “It is only right that the federal government respect the state’s decision and treat all married couples fairly.”

Windsor and Sperber spent more than four decades enjoying their life together here in New York’s Greenwich Village, including countless evenings dancing the night away.

“We lived in love,” Windsor said.

Their lovestory is told in the book, and with their case heading to the Supreme Court, it could make history as well.

NYC Teens ‘TAP’ into NYCLU Activism

The NYCLU’s youth group, the Teen Activist Project (TAP), engages high school students from across New York City as peer educators and community organizers. This year, the NYCLU welcomes 16 new TAP members who were selected from more than 100 applicants.

TAP members are given a crash course in civil liberties and the work of the NYCLU. Trained as workshop facilitators, they educate their peers about minorities’ rights to confidential healthcare. In addition, TAP members are asked to identify social justice issues that are most important to them and launch an advocacy campaign of their choice. The TAP program allows young people to speak directly to NYCLU staff about the civil rights abuses they experience on a daily basis. It helps the NYCLU better understand the civil liberties most important to New York’s youth.
The public outcry was inspiring. There were marches, rallies, lobby days and City Council hearings all targeting one goal – creating a better and more accountable NYPD.

Coupled with our ongoing advocacy with our partners in Communities United for Police Reform (CFP), the NYCLU was proud to arm New Yorkers with a new and innovative way to hold the NYPD accountable for stop-and-frisk and other discriminatory policing practices.

In June, we unveiled “Stop and Frisk Watch” – an innovative, free smartphone application that allows New Yorkers to monitor police activity.

“Stop and Frisk Watch is about empowering individuals and community groups to confront abusive, discriminatory policing,” NYCLU Executive Director Donna Lieberman said. “At a time when the Bloomberg administration stubbornly defends the status quo, our app allows people to go beyond the data to document how each unjustified stop further corrodes trust between communities and law enforcement.”

Now available on the Android Marketplace and coming soon to iPhones, the app has three basic functions: record, listen and report.

The “record” function allows the user to film an incident with audio. When filming stops, the “report” function activates, sending the user a brief survey to provide details about the incident. The video and survey are sent to the NYCLU.

The “listen” function alerts the user when people in their vicinity are being stopped by the police. When other app users in the area trigger Stop and Frisk Watch, the user receives a message reporting where the police stop is happening. This feature is intended to help community groups monitor police activity.

The app was a top download on the Android Marketplace for several weeks following its release, which drew extensive coverage in the mainstream and tech-focused media.

Meanwhile, the NYCLU and CPR – an unprecedented non-partisan campaign to end discriminatory policing practices in New York – are building momentum for legislative reform. The Community Safety Act has the support of a large majority of the New York City Council.

This landmark civil rights legislation would:

- Require officers to identify and explain them to the public
- Protect New Yorkers against discrimination by the NYPD (Intro. S. 800)
- NYPD officers would be prohibited from relying, to any degree, on race, ethnicity, religion, age, sex, gender identity or expression, immigration status, or other protected categories when engaging in law enforcement activities unless based on trustworthy individualized suspicion. New Yorkers would also be able to bring civil actions against the NYPD accountable for practices that have a disparate impact on communities.
- Protect New Yorkers against unlawful searches (Intro. 799) This would end the practice of the NYPD officers coercing New Yorkers into consenting to wrongful searches.
- Require officers to identify and explain themselves to the public (Intro. S. 801)

This would create greater transparency in NYPD operations by requiring that NYPD officers provide an explanation for a police action, like a stop-and-frisk, and a receipt at the end of the encounter. The “listen” function alerts the user when people in their vicinity are being stopped by the police. When other app users in the area trigger Stop and Frisk Watch, the user receives a message reporting where the police stop is happening. This feature is intended to help community groups monitor police activity.

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For the 10th consecutive year, the NYCLU’s annual Broadway Benefit Brings Down the House was a sell-out hit. Some of Broadway’s finest – including the show’s host and musical director Seth Rudetsky and Leslie Odom, Jr. of the TV series Smash – took the stage on July 23 at the NYU Skirball Center for the Performing Arts in Manhattan to salute our work. “We’re so grateful to the Broadway stars who took the stage to celebrate the vital link between civil liberties and the arts,” NYCLU Executive Director Donna Lieberman said. “They generously share their talent to support our youth programs, and this year’s show was better than ever.”

Renowned playwright Tony Kushner, a longtime NYCLU member, opened the show and served as honorary chairman. Proceeds from the show benefit the NYCLU’s youth programs. The lineup featured Nikki Renee Daniels (Porgy & Bess), Darius de Haas (Rent), Lindsay Mendez (Dogfight), Ripley Sobo (Once), Julia Murney (Wicked), Uzo Aduba (Godspell), The Broadway Boys, Ethan Lipton and his Orchestra, and founding performer Liana Stampur with Clinton Curtis. The show was staged by Daniel Goldstein, director of the recent Broadway revival of Godspell.

The evening’s highlights included a reading by 18-year-old Maurisa Fraser, who gave a stirring recital of her poem, Boogie Man, which won First Place for poetry in the NYCLU Freedom of Expression Contest. The contest invites young people in New York City to speak their minds on important civil liberties issues of the day.

AS the result of an NYCLU lawsuit, the Bloomberg administration has ended an abusive NYPD practice of hauling innocent passengers from livery cabs and subjecting them to intimidating and unlawful interrogations and searches.

The NYCLU filed the federal lawsuit in May 2011, charging that the NYPD had used its Taxi/Livery Inspection Program (TRIP) to expand the reach of its unconstitutional stop-and-frisk practices. Plaintiffs Terrence Battle and Munir Pujara, both men of color, were riding in livery cabs and were detained, questioned and searched even though the livery drivers told officers there was no problem, and even though the officers did not suspect the plaintiffs of any wrongdoing.

“Being pulled out of a livery cab late at night when I had done nothing wrong was outrageous and frightening,” Battle said. “I can only hope this settlement spares others from a similar experience.”

Under a settlement approved by a federal judge in May, the NYPD instructed all officers about the lawful treatment of passengers, directing them that they are not to question, frisk, search or demand identification from passengers simply because they are riding in cars participating in TRIP. Instead, officers are to take no action against passengers unless the officers have independent suspicion that the passenger has committed a crime. The NYPD repeated this training in November and will do so again in May 2013. “The NYPD agreed to undertake sweeping training of officers and commanders to halt the unlawful treatment of law-abiding passengers in livery cabs,” said NYCLU Associate Legal Director Christopher Dunn, lead counsel in the case. “This should put an end to the unjustified stopping and frisking of people whose only crime was to be riding in a livery cab.”

In addition, the NYPD issued an operations order to commanding officers directing them to ensure that passengers are not mistreated under TRIP. Finally, the NYPD added a training memorandum on TRIP to the NYPD Police Student’s Guide, which is used in the training of cadets at the NYPD Police Academy.

Livery cab drivers enroll in TRIP voluntarily. The program authorizes police officers to stop participating cabs, identifiable by a special decal, and to perform driver safety checks.

NYU Law School Civil Rights Clinic students Lisa Braff and Evan Parzych assisted Dunn on the lawsuit.
Marist Student Defends His Right to Vote
Provides Key Testimony in Voting Rights Victory

Michael Johnson wasn’t born and bred in Dutchess County, but he has developed close ties with the community over the past three years during his time as a student at Marist College in Poughkeepsie. He looked forward to voting through the 2012 general election; not only to cast a ballot in the presidential race, but also to play a role in choosing the community’s local leaders.

“I’ve gotten to know the people and figures here much more than I ever did at home,” said Johnson, a native of Morris County, New Jersey.

Johnson, 22, hadn’t noticed anything awry when he registered to vote in September during a drive organized by Marist’s College Democrat and Republican clubs.

Johnson learned from a friend in Marist’s Student Government Association that the NYCLU and the law firm of Lowenstein Sandler PC were preparing to file a federal lawsuit challenging Commissioner Haight’s policy. He signed on as one of four plaintiffs, who were a federal lawsuit challenging Commissioner Haight’s policy.

Johnson had been registered to vote in September during a drive organized by Marist’s College Democrat and Republican clubs. “I've gotten to know the people and figures here much more than I ever did at home,” said Johnson, a native of Morris County, New Jersey.

The Capital Region Chapter had a team of volunteer watchers to challenge voters in districts around the state, keeping an eye on the polls. “We committed ourselves to ensuring that all eligible voters could cast ballots free of intimidation or confusion,” said John A. Curr, III. “We’re always appreciative of our volunteers, who once again generously donated their time to staff our hotline and help their fellow residents vote.”

The day before the election, the NYCLU was in federal court contesting a policy enforced by the Dutchess County Board of Elections that had disenfranchised local college students who sought to vote in their college communities. “It was a busy day, but thankfully, we encountered no major issues,” said Western Regional Office Director John A. Curr, III. “We’re always appreciative of our volunteers, who once again generously donated their time to staff our hotline and help their fellow residents vote.”

We assembled a dedicated team of volunteers who were early at the polling sites and stayed late, said Kaelin Rich, Genesee Valley Chapter director. “It had been my goal to learn that you’re an outsider in your own community,” he said.

Johnson, a senior majoring in criminal justice and paralegal studies, puts the lie to the notion that college students never fully embrace the communities where they attend school. As the Student Government Association's director of community relations, Johnson is actively involved in initiatives that serve people beyond campus boundaries. In fact, he directed the SGA’s civility campaign — a program that provides Marist students community service opportunities. After Hurricane Sandy, the civility campaign organized support for victims of the storm, collecting donations of toiletries, clothing and blankets on campus. Through the civility campaign, Johnson organizes fundraising drives for the Grace Smith House, which provides services to victims of domestic violence. He is the co-director of Marist’s fundraising committee for St. Jude Children’s Research Hospital.

“Not being able to vote would have been like watching the election through a glass window,” he said.

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The day before the election, there was a hearing on the NYCLU’s motion for a court order to allow all students to vote in Dutchess County if their registration application included their street address and mailing addresses but not their dormitory address. Johnson was the only student available to attend the hearing. Daniel Berger, director of the NYCLU’s Lower Hudson Valley Chapter, picked him up on campus and drove him from Poughkeepsie to the courthouse in White Plains.

Attorneys for both sides presented arguments at the hearing. “It was a busy day, but thankfully, we encountered no major issues,” said Western Regional Office Director John A. Curr, III. “We’re always appreciative of our volunteers, who once again generously donated their time to staff our hotline and help their fellow residents vote.”

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The day after taking the stand, Johnson voted for the first time in a presidential election. “It was a great joy to walk into the polling place and cast my vote,” he said. “I got to be part of this community that I’ve worked with for the past three years.”
In 2011, Governor Cuomo signed into law a bill recognizing the right of all to marry regardless of gender. The NYCLU's legislative team was engaged in a rear-guard action for much of the 2012 legislative session, opposing efforts to curtail civil rights and civil liberties. A brief recap follows:

Expansion of the state's DNA database
Legislation enacted in 2012 requires that persons convicted of any crime, including low-level misdemeanors, must submit a DNA sample for inclusion in the state's database. The NYCLU has been all but alone in publicly articulating the countervailing arguments—including the emerging body of research that documents the high frequency of error and fraud in the collection and analysis of forensic DNA, and the failure of the state's commission on forensic sciences in addressing complete, and misleading, in at least one important respect.

In 2009-2010, the State Legislature passed a docket of bills upholding and expanding protections of civil liberties that was unmatched in the preceding 20 years. And this was the work product of a senate controlled by Democrats. The legislation led to new laws that:

- Eliminate mandatory sentences for drug offenses (as required under the Rockefeller Drug Laws), and restore to judges the discretion to order treatment and rehabilitation;
- Authorize spouses, domestic partners and close friends to make medical decisions for an incapacitated loved one who does not have a medical directive;
- Direct schools to take affirmative measures—training, education, counseling—that prevent bias-based harassment in schools (the Dignity for All Students Act);
- Prohibit the NYPD's practice of including in a database the name, address, Social Security number and other personal information of people who are innocent of wrongdoing who have been the target of a police stop;
- Recognize the right of domestic workers to a minimum wage, overtime pay and a day of rest after six days' work; and
- End "prison-based gerrymandering," the practice of counting prison inmates as residents of the counties in which they are incarcerated—not where they lived before incarceration—in order to protect certain upset electoral districts.

This was not the "muddling through of legislative activists made a loud, insistent case for change—and the pols took action."

Establishing basic labor rights for New York's farmworkers is an NYCLU legislative priority 2013. [Photo by Celia Roberts.]

Onward: civil liberties legislation the NYCLU will advance in 2013 (… the short list)

- Reproductive Health Act: Establishes a clear, affirmative recognition of the right to reproductive choice under the public health law—consistent with the constitutional safeguards of a woman's health.
- Restrictions on solitary confinement of prisoners: New York must adopt strict criteria that prohibit segregation of prisoners except in certain limited and legitimate circumstances. The state's policy of solitary confinement and extreme isolation is arbitrary, inhumane and unsafe.
- Decriminalization of marijuana possession: Possessing small amounts of marijuana in public view should be reduced from a crime to a violation, as the governor has proposed. Prosecuting this offense as a crime ruins lives, and does little or nothing to protect public safety.
- Farmworkers' rights: Labor laws adopted in the Jim Crow era excluded farmworkers from the rights granted other workers. Pending legislation would give these workers the right to overtime pay and a day of rest each week; the bill would also recognize farmworkers' rights to engage in collective bargaining.
- Comprehensive sex education for teens: Establish (through statute or regulation) medically sound, age-appropriate sex education. The lack of sex ed for New York students is a well-documented public health catastrophe.

NOTICE REGARDING BOARD NOMINATIONS

The annual meeting of the members of the NYCLU will be at 6 p.m. on Wednesday, June 12, 2013 at 125 Broad St., New York NY for the purpose of electing directors, receiving the annual report and transacting any other appropriate business.

All directors are elected by a vote of the statewide membership. This year there are 15 vacancies to be filled. The NYCLU Nominating Committee is charged by the NYCLU By-laws to nominate only as many candidates as there are vacancies on the Board.

The Nominating Committee will nominate its slate of nominees. If you are interested in finding out who the nominees are, please write to Donna Lieberman, Executive Director, 125 Broad St., New York NY 10004. The board of each NYCLU chapter is entitled to nominate one director. Nomination may also be made by petition of at least 25 members.

Nominations must be filed with Executive Director Donna Lieberman by April 15, 2013. 60 days prior to the annual meeting, at 125 Broad St., New York NY 10004. A proxy ballot, along with biographical information and supporting statements of each of the candidates, will be published in the next issue of the NYCLU News.