



# NYCLU NEWS

NEW YORK CIVIL LIBERTIES UNION  
WINTER 2017

www.nyclu.org

Published by the New York Civil Liberties Union

Vol. LVII, No. 1

2

Director's Column:  
NYCLU Stronger Than  
Ever

3

Protecting Voting Rights  
Immigrant Student  
Allowed to Enroll

4

14th Annual Broadway  
Stands Up for Freedom

5

Governor Sides with  
Farmworkers

Meet Daan Zwick,  
Lifetime Member

Keeping Tabs on  
License Plate Readers

6

Public Defense Reform  
Passes

Attorney General  
Affirms Abortion  
Rights

7-8

Solitary Confinement  
Abuse in Syracuse

Saratoga Targets the  
Homeless

Legislative Update:  
After the Election



## Trump's America: Civil Liberties Hang in the Balance

On January 20, a man whose campaign was fueled by hate, intolerance and paranoia will assume the enormous powers of the American Presidency. Donald Trump poses an unprecedented threat to civil liberties, civil rights, our democratic system and plain human decency. But with you at our side, the NYCLU and the ACLU will be ready to face this threat.

"Donald Trump's campaign of hate, fear and bigotry threatens a full-scale assault on our democratic values," said Donna Lieberman, NYCLU Executive Director. "Our national commitment to freedom, equality and justice is long and deep, and the NYCLU will stand strong to fight back and resist his plan to roll back our hard fought freedoms."

Donald Trump's attacks on critics, his demonization of immigrants and Muslims, and his embrace of extremist right-wing causes evoke some of the darkest moments in American history: the Communist purges of the 1950s, the internment of Japanese Americans during World War II, the crackdown on anti-war protesters and political opponents during World War I, and the Jim Crow era.

For the last 100 years the ACLU and NYCLU have stood at the front line defending against these assaults on our basic American values, and since November 8 we have been preparing to do battle to defend our hard-won freedoms. In just the first few weeks after the election, hundreds of thousands of people signed on to stand with the ACLU and to fight back as e-activists, members, supporters and volunteers. They also donated nearly \$18 million.

With New York the home of so many targets of the Trump administration, including dissenters, journalists, immigrants, women, Black people, Latinos and the LGBTQ community – to name just a few – our state will be the epicenter of the coming battle. We must make our state a safe haven for all people and a role model for the rest of the country. Even before Trump assumes power, we are working to plug gaping holes in New York's civil rights safety net, including strengthening the right to abortion, ending the exclusion of public school children from New York's anti-discrimination law and creating state protections for transgender students.

And our elected representatives must push back on behalf of all New Yorkers. That's why the NYCLU's 150,000 e-activists – a 66 percent increase since the election – have already sent out thousands of emails urging Senate Minority Leader Chuck Schumer to stand up for civil rights as the senate considers extremist cabinet picks like Jeff Sessions, Mike Pompeo and Betsy DeVos.

We have established organizing institutes for volunteers, trained scores of "protecting protest" legal observers and are disseminating critical Know-Your-Rights information, especially to vulnerable communities who are likely to be targeted. And that's just the beginning.

"We are not waiting for Inauguration Day to begin organizing our opposition to Trump's assault on our values and contesting his vision of America," said Arthur Eisenberg, NYCLU Legal Director.

### THERE ARE MANY WAYS TO JOIN WITH NYCLU IN STANDING UP FOR CIVIL LIBERTIES IN TRUMP'S AMERICA.

- Build the resistance: Ask five friends to join you in becoming an online activist at [nyclu.org/action](http://nyclu.org/action).
- Contribute your skills by emailing [volunteer@nyclu.org](mailto:volunteer@nyclu.org).
- Donate to us at [nyclu.org/donate](http://nyclu.org/donate).
- Follow us on Twitter and Instagram at [@nyclu](https://twitter.com/nyclu) or like us on Facebook.
- Join us on our Day of Action in Albany.

The NYCLU stands ready to take on what is anticipated to be an unprecedented assault on civil rights and liberties under President-elect Trump. With Trump set to reside in midtown Manhattan for much of the next four years, New York will be the epicenter. *Photo: Gage Skidmore.*

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

125 Broad Street  
New York, NY 10004  
[www.nyclu.org](http://www.nyclu.org)





## A message from NYCLU Executive Director Donna Lieberman: The NYCLU Is Ready to Resist

On November 8, everything changed. And on November 9, we went to work to protect the precious American freedoms that the ACLU and NYCLU have spent nearly a century defending.

We are working feverishly to build the resistance and to prepare for the onslaught that we face when Donald J. Trump is sworn in as president. In my first post-election column, I want to tell you about the threat we confront, the work we already are doing and planning, and what you can do to join the fight.

### WHAT WE CONFRONT

All assumptions we made about political life and discourse in our country have been called into question. Freedoms that we have taken for granted have come under the most serious threat since McCarthyism. I say that as someone who grew up during that time of fear and repression.

President-elect Trump's platform is shaped by hate, fear and bigotry, and since his election he's surrounded himself with people whose records on civil rights are a nightmare. His chief advisor is a proud proponent of the openly white supremacist and anti-woman "alt-right" movement. Trump's proposals threaten basic American

values and threaten to tear our society apart.

Dissenters, women, immigrants, and pretty much anyone else who is not a white, male citizen has every reason to be deeply afraid.

*"The NYCLU and ACLU are prepared to stand stronger than ever. The threats our society now faces are exactly the threats that we exist to fight."*

During his campaign, Trump repeatedly attacked journalists while threatening to change libel laws and restrict freedom of expression. The ACLU was founded in a fight to protect the free speech rights of those who protested World War I. During the McCarthy era of the 1950s, the NYCLU defended artists, journalists, tenants and teachers accused of being Communists. We're facing the same threat to dissent now. Trump recently called for stripping citizenship from Americans who burn the flag in protest.

Trump touts Giuliani-style stop-and-frisk policing in the name of law and order. But unconstitutional stop-and-frisk did not make New York City safer. Instead, it resulted in millions of stops of innocent, mainly Black and Latino New Yorkers and contributed to the deep alienation of entire communities from the police.

The election made it painfully clear that Donald Trump thinks he has the right to control women's bodies – whether for his own personal pleasure or to promote the anti-choice agenda of his right wing "values voter" base. He promised to pack the Supreme Court with anti-abortion judges who will overturn *Roe v. Wade* and to defund Planned Parenthood.

With the threats we face, we at the NYCLU and ACLU have a historic fight ahead. And with your support, we are rushing into that fight.

### WHAT WE ARE DOING

Our plan is ambitious but straightforward:

- **Mobilize public support for protecting freedom**
- **Build the organization we need to be able to fight the Trump administration**
- **Plan for the work to do starting January 21**

Between November 9 and December 1, over 50,000 people joined our e-activism movement – an unprecedented surge that has increased our numbers to over 140,000. Our social media accounts have skyrocketed. More than 250,000 people supported the ACLU with contributions totaling more than \$17.5 million. New Yorkers were responsible for about \$2 million of that total. Over the coming months (and years), we plan to bring hundreds of thousands of new members and supporters into the fight.

*"We have a historic fight ahead. And with your support, we are rushing into that fight."*

Meanwhile, we are working to add staff, to protect our communications systems from infiltration, and to launch an entire new program for the hundreds of volunteers who have come to us since the election eager to stand up to protect a free New York.

And we are already developing our strategic plan, which will have three major components

- **Fight the Hate.** Trump has demonized so many groups that are part of our diverse New York that almost everyone is at risk, not only from a vindictive government but also from dark forces in our society emboldened by Trump's ugly rhetoric.

We already are laying plans to protect **immigrants**, who may face summary detention and deportation; **Muslims**, who face surveillance and worse; **women**, who face misogyny never before seen in the Oval Office and the threat of criminal prosecution for

abortion; **African Americans**, who confront a re-energized white supremacist movement; and the **LGBTQ community**, which faces harassment and a loss of hard-won basic rights, like the right to marry. In New York, we are gearing up to stop police departments from participating in immigrant roundups, to block religious-based surveillance, to amend state law to protect reproductive rights and prohibit discrimination in public schools, help victims of harassment, and expand state protections for the LGBTQ community.

- **Protect Our Democracy.** Trump is hostile to the very values that define our democracy, right down to the legitimacy of our electoral process. Given that the Trump administration likely will face ferocious public criticism and resistance from New Yorkers, we can expect attacks on dissenters here in New York.

One of our top priorities will be to protect **dissenters**, whether they are protesters, flag-burners, journalists, bloggers or just everyday people who criticize Trump on the internet. We also are gearing up to protect **voters**, readying for a broad assault on the right to vote freely. And finally, we are ready to fight to protect **public education**, which lies at the foundation of our democracy and whose very legitimacy will be under attack.

- **Defend Justice.** A Trump "law and order" regime that views African Americans as criminals, Mexicans as rapists and Muslims as terrorists, and that prizes police aggression threatens to erase important criminal justice reforms in New York and across the country. We have made great strides in New York, and we're not giving up that progress without a fight.

The NYCLU spent ten years ending **stop-and-frisk abuse**, and we already are working to make sure it does not roar back to life; we improved prison conditions by reforming **solitary confinement** in New York prisons, and we won't let the Trump administration bring that back; and we will fill the void when the new administration abandons the cause of **police accountability and transparency**. Donald Trump may think that harsh police tactics are the solution to our society's problems, but we know better.

### HOW YOU CAN JOIN THE RESISTANCE

There are many personal stories of people doing what they can to fuel our side for the battle ahead. The wonderfully talented musician Charles Duke donated the proceeds from a show on the Upper West Side to the NYCLU. One woman held an impromptu bake sale on Manhattan's Upper West Side to raise money for the ACLU, spending hours at a makeshift stand on one of the coldest days of the year.

Now it's your turn. I need you to join me and my colleagues at the NYCLU and ACLU as we face unprecedented threats to civil rights and civil liberties. Here are a few things you can do:

- If you're not a member of the NYCLU, join! It costs only \$20 a year to be a proud "card carrying member" of the fight ahead.
- Recruit five friends or family members to join the NYCLU. (And give this newsletter to one of them.) Visit [www.nyclu.org/join](http://www.nyclu.org/join).
- If you contribute financially to our work, thank you! But now is the time to contribute much more. Just go to [www.nyclu.org/donate](http://www.nyclu.org/donate).
- Become an e-activist at [www.nyclu.org/action](http://www.nyclu.org/action). We will keep you informed, and you will make sure your voice is heard by those in power.

The NYCLU and ACLU are prepared to stand stronger than ever. The threats our society now faces are exactly the threats that we exist to fight. With your involvement and support, we can protect the values we all cherish and protect those in our society who face real danger under the Trump administration.

Thank you for standing with us. 



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](http://www.nyclu.org)

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

Robin Willner, President;  
Wendy Stryker, Vice President;  
Ronald Tabak, Secretary;  
Genevieve Wachtell, Treasurer

Donna Lieberman, Executive Director  
Arthur Eisenberg, Legal Director  
Christopher Dunn, Associate Legal Director  
Robert Perry, Legislative Director  
Johanna Miller, Advocacy Director  
Wendy Sealey, Director of Philanthropy  
Ujala Sehgal, Communications Director

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

Central New York Chapter  
Yusuf Abdul-Qadir, Director  
731 James St., Suite 205, Syracuse NY 13203  
315.471.2821

Genesee Valley Chapter  
Kaelyn Rich, Director  
121 N. Fitzhugh St., Rochester NY 14614  
585.454.4334

Nassau County Chapter  
Susan Gotteher, Director  
33 Front St., Suite 205, Hempstead NY 11550  
516.741.8520

Suffolk County Chapter  
Irma Solis, Director  
Touro Law Public Advocacy Center  
225 Eastview Dr., Central Islip NY 11722  
631.650.2301

Lower Hudson Valley Chapter  
Shannon Wong, 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

Sebastian Krueger, NYCLU News Editor  
Simon McCormack, NYCLU News Writer  
Abby Nutter, NYCLU News Writer  
Abby Allender, NYCLU News Designer

Follow @JustAskDonna on Twitter

## Protecting the Vote Across New York

The right to vote is bedrock. Leading-up to the highly contentious 2016 election, the NYCLU made sure New Yorkers knew their rights and what to do if they encountered problems.

*“Who you vote for is your business; that you’re allowed to vote if you’re eligible is ours.”*

This included an Election Day hotline in highly contested counties in Western New York to report intimidation or other problems at the polls. The NYCLU also partnered with Common Cause New York to conduct poll monitor trainings across the state, and recruited volunteers and members to monitor polls in Monroe, Nassau and Suffolk counties. The NYCLU’s main office accepted calls from voters statewide who had questions at the polls.

Western New York included some of the most highly contested races in New York State. Long a Democratic stronghold surrounded by red counties, Erie County forecasted a strong turnout for both presidential candidates. It was also home to one of the most anticipated senate races in the 60th district.

As part of the Western Regional Chapter’s hotline, staff and attorneys were available to take questions and field complaints on issues like voter intimidation, unconstitutional voter ID requirements, errors on voter registries or lack of accommodations for people with disabilities.

“Who you vote for is your business; that you’re allowed to vote if you’re eligible is ours,” said NYCLU Western Regional Chapter Director John A. Curr III. “We are committed to making sure New Yorkers are able to exercise their constitutional rights on Election Day.”

The NYCLU’s Suffolk County, Nassau County and Genesee Valley chapters were also engaged in on-the-ground election protection work, including assisting voters with finding polling places, helping voters whose names did not show up on registries get affidavit ballots and serving as a buffer against voter intimidation. 🗺️

## Immigrant Student Can Finally Enroll in Mamaroneck

The Mamaroneck Union Free School District tried to block a 16-year-old immigrant student from enrolling at Mamaroneck High School after his family moved to Larchmont earlier this year. That’s when the NYCLU’s Lower Hudson Valley Chapter and our legal team stepped in. The NYCLU filed an appeal of the district’s decision in May and asked the State Education Department to allow the student, identified as “C.M.,” to enroll.

The district claimed that C.M. had “previously graduated from the highest level of compulsory education offered in Guatemala,” despite receiving only a middle school education. Eventually the district backtracked from its original justification, but nevertheless refused to let C.M. enroll. This forced C.M. to travel to his old school in New Rochelle to continue his studies, even while his parents took his siblings to school in Mamaroneck.

That changed a few days after the NYCLU filed its appeal, when the New York State Commissioner of Education issued an interim order requiring the district to let C.M. start attending classes until Commissioner Mary Ellen Elia reached a final decision. Then in September, Commissioner Elia again sided with the NYCLU and ruled that C.M. must be able to permanently enroll.

“All children in New York must be allowed to pursue a public school education,” said NYCLU Regional Organizer Guisela Marroquín. “We hope that districts across the state will heed the Commissioner’s decision and recognize that New York is a stronger state when we invest in all children’s futures and provide them the skills they need to succeed.” 🗺️

In the hours and days after the presidential election, people from across the state took solace in the mission and work of the NYCLU and voiced their solidarity for the fight ahead.

*“I know I have been cheering you on often from the sidelines ... I’m in. Educate me, use me, count on me. I look forward to mobilizing in whatever way you need.”*

*“You have been on my mind all week. Thank you for all your efforts. My heart is heavy but I am grateful for people like you looking out for us.”*

*“I am more committed than ever to fighting the xenophobia, bigotry, sexism, racism and anti-Semitism of Donald Trump’s ‘movement.’ Please let me know what I can do to help.”*

*“I can think of no other way to fight the hate than to support those who will go to bat for us. A check is in the mail. Every little bit counts. Thank you for helping to keep us safe!”*

*“I’ve been thinking about how crushing the election must be for you because the outcome is so antithetical to The Cause. It’s a good thing you’re so young and you can keep fighting the good fight. Take it to them!”*

Learn what you can do: [www.nyclu.org](http://www.nyclu.org)

## Broadway's Best Raise Voices in Support of Liberty



In July, the NYCLU held its 14th annual Broadway Stands Up for Freedom benefit concert, showcasing the vital link between civil liberties and the arts.

A packed house at the NYU Skirball Center welcomed Broadway's finest, including Tony Award-nominee Celia Keenan-Bolger, Ben Platt, 2016 Tony Award-nominee Jennifer Simard and host Susan Blackwell.

Opening the concert with founding performer Liana Stampur, NYCLU Executive Director Donna Lieberman riffed on Donald Trump, promising that the NYCLU would build its own kind of wall – “a wall of separation ... between church and state.”

Highlights included performances by the Brooklyn Tech Lady Dragons Step Team and Wallace Smith, who joined the Chicago cast of *Hamilton* this year, reading letters from those in solitary confinement. The cast of the play *PRIVACY*, which was informed by the NYCLU's work and featured Daniel Radcliffe and Rachel Dratch, delivered a special recorded congratulations.

Tony Award-winner Jayne Houdyshell read a poem by 16-year-old Khadiza Bhuiyan, “The Revision of Our Ethics.” This piece was among the winners of the NYCLU's annual Freedom of Expression Contest, in which young people speak their minds on pressing civil liberties questions. Tony Award-nominee Liesl Tommy gave the keynote speech.

The audience included notable figures from NYCLU's work such as Gwen Carr, the mother of Eric Garner, Dominique Sharpton from the National Action Network, Counsel to the Governor Alphonso David, and the State Attorney General's Civil Rights Bureau Chief, Lourdes Rosado. 🇺🇸



Join us for the  
*15th annual*

**BROADWAY  
STANDS UP  
FOR FREEDOM**

JULY 17  
2017

FOR MORE INFORMATION:  
[www.nyclu.org/bway](http://www.nyclu.org/bway)

LEFT TO RIGHT FROM TOP: The Brooklyn Tech Lady Dragons Step Team; NYCLU Executive Director Donna Lieberman and Broadway Stands Up for Freedom founder Liana Stampur; YouTube star Christina Bianco; Eric Garner's mother, Gwen Carr; *Madam Secretary's* Erich Bergen; *Godspell's* Celisse Henderson; *Eclipsed* director, Liesl Tommy; Winston Dynamite Brown, Bradley Eckerson and L. Steven Taylor in a performance choreographed by *The Lion King's* Ray Mercer. Photos by Donna Aceto.

## NYCL ... You: Daan Zwick, Card-Carrying and Proud for Decades



Daan Zwick pictured above. Photo courtesy of the NYCLU Genesee Valley Chapter.

Daan Zwick became a lifetime member of the ACLU in the 1970s, shortly after the organization defended the free speech rights of neo-Nazis who marched in the Chicago suburb of Skokie. The notoriety of the case caused some ACLU members to resign, but to many others like Zwick the case represents the ACLU's unwavering commitment to principle.

"That was an instance of the organization really putting its money where its mouth was," Zwick says. "I thought that was a great action."

Fast forward to 2016. The NYCLU and ACLU are vociferously sounding the alarm over policies proposed by President-elect Donald Trump, whose campaign drew the support of neo-Nazis and white nationalists. For Zwick, who first joined the ACLU in the 1930s, the new threats that civil liberties face under a Trump presidency should be combatted with the same commitment to the Constitution that has guided the NYCLU and ACLU since their beginnings.

"We've got a clear set of standards, things we support and things we don't support," Zwick says. "I don't think that's going to change."

Zwick would know. The 94-year-old Rochester resident has been a member and volunteer, and has sat on the NYCLU's board of directors.

Zwick started volunteering with the NYCLU in 1987, following his retirement from Kodak, where he worked for more than forty years. He handled the phones for years as an intake volunteer in the NYCLU's Genesee Valley office, where he still lends a hand.

During that time, Zwick helped countless people who reached out to the organization for assistance. He recalls helping two Black children with constant

harassment by police in Greece, New York. Officers repeatedly stopped the pair of students following the robbery of a convenience store near their high school.

*"No one should be hesitant to fight for these rights ... they are a basic part of our form of government, our political system and the moral system of this country."*

"I spoke with the chief of police and helped officers see these children as two people, not as suspects," Zwick says. "After that, the harassment stopped."

Zwick also worked with prison officials to make sure Muslim people who were incarcerated got meals in line with their religious beliefs.

"I learned a lot about the penal system," Zwick said. "I felt good about having helped a lot of people who had problems practicing their religion while they were incarcerated."

During his time on the NYCLU board, Zwick donated money to make sure the organization kept chapter offices throughout the state well resourced.

"There was a lot going on around the state that needed attention," Zwick says. "It was important to preserve the concept of chapters."

Zwick is also a long-time proponent of well-funded, well-resourced public defense. This year the NYCLU was part of a broad coalition that helped pass a bill that would ensure people accused of crimes have access to effective representation when they cannot afford a lawyer.

"There are certainly humanitarian arguments for not incarcerating people who are not guilty of any crime," Zwick said. "But there's also a good economic argument that if the state spends money on public defense, you'll spend less money incarcerating people who didn't do anything wrong."

Whether it's standing up for the freedom of speech and religion, improving police-community relations or pushing for everyone accused of a crime to have a fair day in court, Zwick sees civil liberties battles as fundamental to our country's past, present and future.

"No one should be hesitant to fight for these rights," Zwick said. "They are a basic part of our form of government, our political system and the moral system of this country."

## Keeping Watch on Suffolk County License Plate Readers

The Suffolk County Police Department announced in October that it plans to install 50 license plate readers in the hamlet of Brentwood.

License plate readers can collect a huge amount of information and can capture the movements of thousands of drivers, whether they are being investigated by law enforcement or not.

"There need to be really tight measures governing how the Suffolk County Police stores and uses troves of information on innocent Americans," said NYCLU Suffolk County Chapter Director Irma Solis. "We all value our safety and that's why it's so vital to make sure police are focusing on people who have committed crimes, not on thousands of innocent Long Islanders."

There are terrifying examples of what happens when license plate reader technology is not closely monitored. A police officer in Washington D.C., for example, pleaded guilty to extortion after looking up the plates of cars near a gay bar and blackmailing the cars owners.

*"We all value our safety and that's why it's so vital to make sure police are focusing on people who have committed crimes, not on thousands of innocent Long Islanders."*

And in Kansas, a SWAT team raided a man's house where his wife, 7-year-old daughter and 13-year-old son lived. The police were looking for a marijuana growing operation based in part on the mass monitoring of cars parked at a gardening store. The man was held at gunpoint for two hours while cops combed through his home. They found no growing operation or evidence of criminal activity in the house.

The Suffolk County Chapter and lawyers with the NYCLU spoke with the Suffolk Police Department about our concerns and we will be there every step of the way as the department develops policies around the devices.

Follow our work around the state: @nyclu

## Governor Agrees: Farmworkers Deserve Right to Organize



"We believe our lives are important and that all human beings deserve to be treated with dignity and respect."  
— Plaintiff Crispin Hernandez. Photo: Alberto Morales.

Because of a racist, 80-year-old law held over from the Jim Crow era, farmworkers are excluded from the critical right to collectively bargain without fear under New York State's labor law. This exclusion – a violation of the state constitution – forces them to work in life-threatening, sweatshop-like conditions.

As the nation braces for attacks on immigrants' rights, the lack of basic protections for New York State's 60,000 farmworkers is all the more concerning and shameful. Farmworkers, who often come to the

United States to save their families from devastating poverty in their countries of origin, tend to make wages that are well below the poverty level. They often live packed together in labor camps amid infestations of rats, cockroaches and bed bugs, where they are usually isolated and without regular access to transportation.

Most are racial minorities who do not speak English, and as many as 75 percent are undocumented, a fact supervisors use to intimidate them into silence.

They are excluded from the workplace protections afforded to nearly all other workers, including a day of rest, overtime pay, disability insurance and the right to organize without retaliation.

*"Without farmworkers, there would not be milk, fruits or vegetables, but we are treated like slaves and worse than the cows."*

Thanks to the brave stand taken last summer by farmworker Crispin Hernandez and two organizations that have supported farmworkers for years, the Workers' Center of Central New York and the Worker Justice Center of New York, a new lawsuit challenges this status quo. The NYCLU is representing Hernandez and both organizations in the lawsuit.

"Without farmworkers there would not be milk, fruits or vegetables, but we are treated like slaves and worse than the cows," said Hernandez, the lead plaintiff.

"It's a shame the state excludes them from one of our most important protections: the right to collectively bargain without fear," said Rebecca Fuentes, lead organizer at WCCNY. "This lawsuit is an avenue to get some justice."

After the lawsuit was filed last May, both Governor Andrew Cuomo and Attorney General Eric Schneiderman publicly said they agree that the exclusion conflicts with the state constitution and will not defend the lawsuit, a remarkable show of support toward a legal victory.

In October, the Farm Bureau intervened as a defendant in the case. It is an immensely powerful lobby that has used its influence in Albany to try to quash efforts by workers and workers' rights groups to allow farmworkers to receive even the most basic protections received by other workers.

"The Farm Bureau has used its power and influence to lobby New York lawmakers to preserve the status quo and leave farmworkers in a position of vulnerability," said Carly Fox, an advocate at WJCN. "Such tactics won't work in a court of law."

Erin Beth Harrist, senior staff attorney at the NYCLU and lead counsel in the case, agrees with the plaintiffs. "For all of the Farm Bureau's powerful lobbying, the law is unconstitutional and we believe the courts will have no choice but to agree."

## TAPPING STREET SMARTS FOR POLICE REFORM

This fall, the NYCLU launched a unique street survey campaign for three of NYC's most heavily-policed neighborhoods. We asked residents what they thought about police and how they would change the NYPD. Many who participated talked about the use of quotas in policing. *Photos by Alberto Morales.*



"I think about my son and whether he will have to go through what I go through," says Ajamu. "That's why I'm glad to participate in this survey campaign. For his future."



"Everybody around here knows about quotas," says Brownsville resident Louis. "The harassment is constant. Police are supposed to keep us safe, not collect quotas so that they can get promotions."



"You're not there to chase numbers. You're supposed to serve and protect" said Shannon, joined by her son Koray. "We wanted to take the survey because we wanted someone to hear about what we think about the police in our neighborhood."

To find out more about our recent campaigns, please visit: [www.nyclu.org](http://www.nyclu.org)

## New York Attorney General Affirms State Abortion Rights

In September, Attorney General Eric Schneiderman clarified in a formal opinion that women's constitutional reproductive rights enshrined in *Roe v. Wade* must be read into New York's more restrictive abortion law. New York's law, last modified in 1970, recognizes a right to abortion before the 24th week of pregnancy but allows it thereafter only to save a woman's life.

*"For patients, state agencies, hospitals and other providers there should be no further doubt that *Roe v. Wade* is the law of the land."*

The state law was considered vanguard legislation when it was passed, but three years later the Supreme Court decided *Roe v. Wade*, ruling it is unconstitutional for the state to deny the right to abortion throughout pregnancy if a woman's health is at risk or the fetus is not viable. The attorney general's opinion affirms that women in New York have this right throughout pregnancy, despite state law.

Health care providers in New York have often felt

compelled to deny women the medical care they need later in pregnancy because of New York's antiquated law. This has wrongly forced women to travel out of state for care, often at great cost and risk to their health, or to forgo care altogether.

"Patients and providers have shared wrenching stories with us of women who faced medical peril, extreme cost and devastating loss because of legal confusion in New York," said NYCLU Policy Counsel Katharine Bodde. "The attorney general has taken an important step toward ensuring no more women face the same fate. The state legislature should now take the final step and reform our state law."

"For patients, state agencies, hospitals and other providers there should be no further doubt that *Roe v. Wade* is the law of the land," said NYCLU Executive Director Donna Lieberman. The NYCLU played a lead role in encouraging the attorney general to address the problem. 

The NYCLU has collected stories of women affected by the state's unconstitutional restrictions for an upcoming report.



The NYCLU and ACLU were out in full force during this year's New York City Pride parade. The celebration took place in the shadow of the Pulse Night Club shooting in Orlando, the deadliest in modern American history. We asserted our unwavering commitment to the LGBT community amidst tragedy. *Photo by Donna Aceto.*

## Historic Public Defense Reform Passes in New York

In a victory for equal justice more than 50 years in the making, lawmakers passed historic legislation to fundamentally reform the state's public defense system in the closing hours of the legislative session in June.

*"This legislation commits New York State to systemic reforms that will fulfill its constitutional obligations."*

The new legislation places responsibility on the state to fund public defense services for the first time since the Supreme Court held, in 1963, that criminal defendants who cannot afford to pay for a private attorney must be provided with representation.

New York has left this responsibility to its counties, creating a patchwork of public defense programs that are under-resourced and underfunded. Poor New Yorkers must often appear in court without a lawyer, or with a lawyer who is unprepared. They receive excessively high bail offers, plea deals that are unfair, unwarranted pre-trial detention and harsh sentences for low-level misdemeanors and petty offenses. They lose their jobs, homes and their families.

Senator John DeFrancisco and Assemblymember Pat Fahy sponsored the reform bill, which transfers responsibility for funding public defense from the counties to the state over a seven-year period. It authorizes the Office of Indigent Legal Services to establish and uphold standards to ensure that poor people accused of crimes receive effective legal representation.

Adequate public defense may be even more urgently needed now. Incoming president Trump has run on a "law and order" message for cities, pledging a return to ineffective and divisive policing approaches like stop-and-frisk. These impact poor and minority communities most and thrust people into the criminal justice system.

"This legislation commits New York State to systemic reforms that will fulfill its constitutional obligations," said NYCLU Legislative Director Robert Perry. The NYCLU was an active proponent of the legislation and laid the foundation for reform with a 2014 settlement in its case, *Hurrell-Harring v. State of New York*. This settlement, between the NYCLU, Schulte, Roth & Zabel LLP and New York State, overhauled public defense in five New York counties and transferred responsibility for services to the state.

The new legislation is yet to be signed into law by Governor Cuomo and is awaiting his decision by the end of the year. 

## Fighting to End the Solitary Confinement of Children in Syracuse



Charnasha, pictured above, is still haunted by her time in solitary at the Justice Center. Photo: Alberto Morales.

In September, the NYCLU and Legal Services of Central New York sued the Onondaga County Sheriff's Office for locking up children ages 16 and 17 in near-complete isolation and for months at a time.

Children are sexually harassed by adults, housed in disgusting conditions, denied education and, in some cases, pushed to contemplating suicide. They are routinely sent to solitary for "offenses" such as speaking loudly and wearing the wrong shoes, or because of the whims of guards.

"For children, even a short stint in solitary can alter their entire lives," said Philip Desgranges, lead counsel on the case and staff attorney at the NYCLU. "Their mental health deteriorates and some have thoughts of suicide after just a day in solitary. A justice system that puts anyone, especially vulnerable children, through long periods of abuse for such trivial reasons has forgotten the meaning of justice."

"Solitary confinement of children is not discipline. It is simply torture, and it has to stop," said Yusuf Abdul-Qadir, director of the NYCLU's Central New York Chapter.

The suit, filed against officials at the Onondaga Sheriff's Office and the Syracuse City School District, charges that the use of solitary confinement violates the children's rights and that the sheriff and school district are denying them an appropriate education in violation of the Fourteenth Amendment, the Eight Amendment and the Individuals with Disabilities Education Act.

The lawsuit asks the court to order the Sheriff's Office to entirely stop using solitary to punish children.

More than 250 times between October 2015 and September of 2016, the sheriff placed at least 86 children into tiny cells for 23 hours a day with, in some instances, feces and urine on the floor. Young girls in solitary are watched by adult male guards as they are forced to shower without a curtain. One girl, 16-year-old Charnasha, described a deputy guard making comments about her and other girls.

"I felt uncomfortable and exposed. I still can't sleep at night because of the nightmares. I think what happened to me was wrong," she said. She had written her mother a letter saying she was going to take her own life.

Because children can be housed in adult facilities by age 16 under New York law, the sheriff has put children in solitary cells next to adults who threaten them with violence. The long periods of isolation are devastating.

As in many jails, the majority of those at the Onondaga County Justice Center, including the children, have not been convicted of a crime, but are held because they are too poor to afford bail. Some wind up with over a hundred days of solitary time during which they are not allowed to talk to other detainees, receive essentially no education or mental health care, and are limited to one-hour of "recreation" in small chain-linked filthy cages.

Solitary is dangerous for anyone, causing psychosis, trauma, depression and self-harm. As the tragic suicide of Kalief Browder reminds us, the effects of solitary on a child's developing brain can be fatal. But at the Justice Center jail officials have deliberately ignored warnings that children are especially vulnerable to solitary. Instead, children who reach their breaking point and want to kill themselves are put on suicide watch for a short period, only to be returned to solitary.

"You can't see anything, just black walls closing in. I kept thinking about killing myself," said Randy, who was 16 when he was sent to solitary for arguing with another kid over a basketball. Randy later tried to cut his own wrists.

"This is child abuse. Parents would be locked up for treating their children the way the Justice Center is treating them every day," said Walta Williams, Randy's mother. She had to put her home up as collateral to remove her son from the Center.

## Saratoga Sidewalk Law Makes Homelessness a Crime

In June, the city of Saratoga Springs passed a law that targets the city's homeless population. The ordinance bans sitting or lying on sidewalks, and those who repeatedly violate the law could be sent to jail for as long as 30 days and fined up to \$500.

The NYCLU's Capital Region Chapter immediately called out the law for what it is: An attempt to criminalize homelessness.

"Courts have long recognized the importance of public streets and sidewalks as places for free speech and peaceable assembly, and this ordinance infringes on those fundamental rights," said NYCLU's Capital Region Chapter Director Melanie Trimble. "The very idea of levying fines against people who are already impoverished defies common sense – and it's also unconstitutional."

The Capital Region Chapter called out the ordinance at public forums and in the media. In the face of pressure brought by the NYCLU and other members of the community, Saratoga officials who support the ordinance claimed that the law was misunderstood. However, responding to recent critical media coverage, members of the Board of Commissioners said they'd like to amend the ordinance to make penalties for violating the law less punitive.

*"... public streets and sidewalks [are] places for peaceable assembly, and this ordinance infringes on those fundamental rights."*

But attempts to tweak the law cannot sugarcoat its true intent. Criminalizing homelessness is not only cruel, it's ineffective. As the Justice Department found, ordinances like the one in Saratoga Springs push homeless people into the criminal justice system and make it even more difficult for them to get back on their feet.

The Capital Region continues to monitor how the law is enforced and to defend the rights of the community's most vulnerable people, while pushing for the ordinance to be fully repealed.

**SPEAKING OUT ON SOLITARY IN SYRACUSE:** The NYCLU and Legal Services of Central New York sued the Onondaga County Sheriff's Office in September for placing children in solitary confinement for months at a time. They are held in disgusting conditions, denied education and harassed. Photos by Alberto Morales.



"The first thing I noticed was the smell. There was feces and urine all over the floor. I didn't want to go in, but I did. I was scared, and then they shut the door. It was so dark, just walls. They feel like they are closing in on you. You start to lose it. I couldn't stop thinking about killing myself." - Randy, age 17



"They locked me up for 23 hours a day, sometimes 24 hours. Being in isolation made me feel crazy. I missed my mom. The smell was awful because they turned the water off for three days and we couldn't flush the toilets. Now that I'm home, I'm scared to sleep at night because of my bad dreams," says 16-year-old Charnasha. "I'm really happy to be out of the box. What happened to me was wrong. No kids should be allowed into solitary confinement like I was. When I grow up, I want to work with kids and help them."

# After the Election: Legislative Advocacy in 2017 and Beyond



We have just witnessed a presidential campaign performed as if it were as if it were a reality television show. A central character in this drama brazenly and boisterously mocked civil and constitutional norms.

He was divisive, but close to half the American voters were captivated.

Our charge now is to challenge the president-elect's story with our own story of a society based upon principles of fairness and inclusivity, of equality of opportunity, of equal protection and due process of law. Central to our narrative of a great America is the right to speak and organize, and to demonstrate and demand on behalf of these principles.

## If the Year Had Ended on Nov. 7, 2016

Election years always make for contentious politics within the legislature – but, notwithstanding the fierce politics playing out in the national and state elections, there were significant advances for civil liberties in 2016.

- In the final hours of the legislative session, lawmakers passed a bill that commits the state to uphold the promise of *Gideon v. Wainwright* – that the state must provide a lawyer to a person facing criminal charges who lacks the resources to hire a private attorney. The legislation realizes the state's constitutional obligation to fund public defense services, and does so pursuant to standards established in the NYCLU's landmark settlement in *Hurrell-Harring v. State of NY*. The seven-year litigation reforms inadequate public defense and unequal justice in five counties. Lawmakers passed the bill, which will extend the settlement terms across the state, without a dissenting vote. **This was a historic step forward.** The governor's position is not clear as of this writing; but the legislation has been delivered to his desk.
- Gov. Cuomo signed legislation in April requiring that private-sector employees receive paid leave when needed to care for a newborn or a seriously ill family member. This was a remarkable outcome for legislation that was considered politically untenable only a year earlier. Its time, finally, had come. Six in ten children have parents who both work. Parents confront a choice between providing essential care to family members and keeping a job. Single parents and those with the least income face this dilemma most often. If American society is to be based upon economic justice, paid family leave

must become national policy. New York is only the fourth state to establish in law a paid family leave benefit.

- In September Attorney General Eric Schneiderman issued a legal opinion that makes clear New York law must be interpreted in a manner that is consistent with *Roe v. Wade*. The right to abortion in New York State was established in 1970 – prior to the Supreme Court's ruling in *Roe v. Wade* – as an exception to a penal code that criminalizes the act of abortion. New York's abortion law fails to comport with Supreme Court jurisprudence. It does not recognize that a woman has an affirmative right to obtain an abortion; nor does the law recognize that a woman may exercise that right if the fetus is not viable, or if bringing a pregnancy to term would endanger her life or health.

## Speaking Truth(s) to Power

In the week following the election, incidents of bias and harassment erupted. These were only the more visible signs of deep tension and conflict in the body politic. The presidential campaign has precipitated a contest over the first principles of a constitutional democracy. The NYCLU and its supporters across the state will take up this contest on behalf of the civil liberties of all New Yorkers. The campaign will be engaged on many fronts.

- Oppose hate, promote tolerance:** Donald Trump called for a return to greatness. But many will be marginalized in this new America. Immigrants will be at risk of profiling, surveillance, registration, detention and deportation. Candidate Trump demeaned Muslims, women and the LGBTQ community. He revived a racially contemptuous depiction of the "inner city" as a hellscape. The NYCLU and its allies will mobilize broadly to enforce prohibitions against discrimination – in the streets, the workplace and schools – and to prevent the diminution of anti-discrimination laws and policies.
- Build the movement to reform the criminal justice system:** The national movement to reverse the policies and practices of racialized policing, prosecution and incarceration has hardly begun. It can be expected that a Trump administration will resist this movement. There must be a sustained campaign to reverse mass incarceration, end "broken windows" policing and dismantle the School to Prison Pipeline.
- Uphold the right to speak and demonstrate; defend freedom of the press:** The presidential campaign may have marked the start of the post-truth era in political discourse. Donald Trump mocked and ridiculed opponents and skeptics, and he encouraged intimidation of those who

demonstrated in opposition to him. He taunted journalists and he mastered the social media to disseminate his pronouncements. The First Amendment principles of speech and association will need formidable champions.

- Reject the privatization of public education:** The alt-right proposes that marketplace competition is needed to reform the country's educational system. It calls for diverting public funds to privately operated charter schools and for providing tax credits for donations to private schools, including religious schools. The president-elect has signaled that his administration will embrace a free-market approach to education policy. The NYCLU has helped lead the campaign to support free and universal public education in Albany; now we join forces with advocates who will bring the campaign to Washington.
- Protect personal privacy:** Donald Trump's remarks regarding the exercise of government police powers will put in conflict the competing interests of security and personal privacy. The technologies used to conduct surveillance, data collection and data mining have advanced far more rapidly than the legal protections of personal privacy. The NYCLU continues to push for the New York Electronic Communications Privacy Act, requiring a judge to issue a warrant before police can access your digital information. In addition, Trump is dismissive of privacy and autonomy in matters of reproductive choice. The reversal of *Roe v. Wade* will be a litmus test for his Supreme Court nominations. The NYCLU, in alliance with ACLU affiliates nationally, will oppose the unwarranted invasion of personal privacy at local, state and national levels.

## Is There a Role for You in This Campaign?

Yes, there is. On March 13, 2017 the NYCLU will organize a Day of Action in Albany to make New York a safe haven and a model for justice and equality. We will be meeting with members of the senate and assembly and presenting a show of (lawful and disciplined) force for a fair, just and inclusive New York; for the Bill of Rights and the principles on which it is based; and for you.

Please join us. Numbers matter. To find out more about the Day of Action, contact Lauren Frederico at [lfrederico@nyclu.org](mailto:lfrederico@nyclu.org).

## YES, I will be there for the New York Civil Liberties Union!

### The NYCLU's strategic initiatives are to:

- Advocate** for integrated and equal educational opportunities in New York;
- Increase** transparency and accountability in policing;
- Build** the framework for more robust digital privacy protections; and
- Guarantee** the right to counsel for all New Yorkers.

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  Visa  MasterCard

CARDHOLDER NAME \_\_\_\_\_

ACCOUNT # \_\_\_\_\_

EXP DATE \_\_\_\_\_ SECURITY CODE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

### Support NYCLU online at [www.nyclu.org](http://www.nyclu.org)

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



SNY250N1601

RACIAL JUSTICE  
VOTING RIGHTS IMMIGRATION  
LGBT EQUALITY  
NYCLU ABORTION ACCESS DISABILITY

## 2017 NYCLU DAY OF ACTION

save the date:  
**MARCH 13, 2017**

9:00 a.m. to 4:45 p.m.  
New York State Capitol  
State Street and Washington Avenue  
Albany, NY

REGISTER NOW:  
<https://action.aclu.org/dayofaction>

FREE SPEECH  
UNION INTERNET

### NOTICE REGARDING BOARD ELECTION

The annual meeting of the members of the NYCLU will be at 6 p.m. on Wednesday, June 21, 2017 at 125 Broad St., New York NY, at which the board of directors shall be elected.