Helping to Lead the Fight for Women's Equality

Two years ago, Governor Cuomo staked his reputation as a progressive leader on getting the Marriage Equality bill passed. During his State of the State address this year, to a standing ovation, the governor pledged to make 2013 the year of Women’s Equality. Shortly after his address, the governor met with a small group of advocates to discuss how best to move forward with a large and complex campaign to sweep away many barriers to women’s equality in the Empire State. NYCLU leaders attended the meeting. “The NYCLU is proud to support Governor Cuomo’s Women’s Equality Agenda,” said NYCLU Executive Director Donna Lieberman. “The governor’s groundbreaking 10-point plan will undoubtedly help level the playing field and ensure that all of New York’s mothers, daughters, sisters and wives can fully and equally participate in society.”

The NYCLU has for years been working the channels of Albany and helping to lay the foundation for a movement to ensure that all of New York’s 10 million women, from the Bronx to Binghamton, can more fully and equally participate in society. The Women’s Equality Agenda recognizes that to have equal opportunities, a woman in New York must be able to protect her health and make the reproductive health decisions that are best for her and her family. A cornerstone of the agenda is the protection of reproductive rights. New York law needs to be in line with the federal constitution and current practice. Our abortion law must be moved out of the penal code and into the public health law, where it belongs. The Women’s Equality Agenda also includes measures to help achieve pay equity; extend sexual discrimination protections to gay, lesbian, bisexual, and transgender people; and support the rights of women to join unions.

Ms. Windsor Goes to the Supreme Court

Highest Court Hears New York Widow’s Challenge to DOMA

On March 27, New York City resident Edith “Edie” Windsor stood on the steps of the U.S. Supreme Court before a throng of TV cameras and reporters and described how it felt to stand up for her rights before the nation’s highest court. “Today is a spectacular event for me,” the 83-year-old said. “I know that the spirit of my late spouse, Thea Spyer, is right here watching and listening and would be very proud of where we’ve come to.”

That morning, the Supreme Court heard arguments in United States v. Windsor, the lawsuit Windsor filed challenging the so-called “Defense of Marriage Act” – a federal law that defines marriage for all federal purposes as a legal union between one man and one woman as husband and wife. It is the last explicit federal declaration that gay people are inferior. The NYCLU, the ACLU and the law firm of Paul, Weiss, Rifkin, Wharton & Garrison, and the Stanford Law School Supreme Court Litigation Clinic represented Windsor. NYCLU Executive Director Donna Lieberman attended the argument with NYCLU Attorney Mariko

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Reclaiming the Progressive mantle for New York

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NYCLU challenges NYPD Surveillance of Muslim Communities

The NYCLU and partnering attorneys have filed papers in a federal court seeking to stop the NYPD’s widespread surveillance of innocent Muslim New Yorkers. “The NYPD’s widespread surveillance of New York City’s Muslim communities rests upon the erroneous perception that all Muslims, regardless of their individual beliefs and values, are inherently suspect,” said NYCLU Legal Director Arthur Eisenberg. “In this way, the stop-and-frisk stagnates at the very site of unlawful activity or terrorism.”

In a Pulitzer Prize-winning series of investigative articles that began in August 2011, the Associated Press documented the NYPD’s massive domestic surveillance program targeting Muslims in greater New York City and surrounding areas. Officers have routinely monitored restaurants, bookstores and mosques. They’ve created detailed records of innocent conversations they’ve both had with individuals and eavesdropped on. Asking their Police Department has also sent paid informants — called “takers” — into mosques and college student associations to take photographs, write down license plate numbers and keep track of people for no other reason than because they are Muslim.

The Feb. 4 filing is the latest chapter of the decades-old Handschu v. Scheindlin, a Special Vice Admiralty court proceeding, a decades-old federal case that has produced a series of court orders regulating NYPD surveillance of political and religious activity. The NYPD’s Muslim surveillance program is violative of a court order — a so-called Handschu order — that restricts the Police Department’s ability to investigate or spy on people when there is no “reasonable indication” of unlawful activity or terrorism.

Queens resident Shamil Rahman, a former NYPD infiltrator, was paid as much as $1,500 a month to spy on members of the Muslim community. In a declaration included in the court filing, Rahman describes taking photos of people at mosques, infiltrating classes, sitting down cell phone numbers on sign-up sheets for Islamic education classes, and taking photos of students and license plate numbers at lectures held by the Muslim Student Association at John Jay College.

“My NYPD boss Steve told me that the NYPD did not think the John Jay Muslim Student Association was doing anything untoward,” Rahman said. “The members of the MSA were religious Muslims, and according to my boss Steve, the NYPD considers being a religious Muslim a terrorism indicator.”

The Handschu case was filed in 1971 in response to the NYPD’s widespread surveillance of anti-war protesters in the late 1960s. The case was settled with a consent decree entered in 1985, in which the NYPD was prohibited from investigating political and religious organizations unless there was “specific information” that the group was linked to a crime or had been committed or was about to be committed.
An Uncommon Bond in Defense of Civil Liberties

Don Shaffer, center, flanked by Barbara Shack (L) and Doris Shaffer (R), at the 2006 retirement celebration for Barbara Bernstein.

When Jim Bernstein and “the Donalds” – Don Shaffer and Donald Shack – first met at the W.S. 138 in Brooklyn, nobody could have predicted that their schoolyard friendship would bloom into lifelong loyalty and a dogged commitment to civil liberties.

It’s also safe to bet that those three little boys from Crown Heights never could have guessed that their futures would include marriages to three dynamic women, who worked as hard as they did to advance and promote New Yorkers’ civil liberties and basic rights.

The three couples – Jim and Barbara Bernstein, Don and Doris Shaffer, and Donald and Barbara Shack – formed the engine that drove the NYCLU’s Nassau County chapter.

“It was a confluence of sympathies,” added Doris, who died in 2004. “We had similar social and personal values,” added Jim, a retired gastroenterologist.

Nassau County’s NYCLU chapter was established in 1962, after Don Shaffer, who was an insurance and County Chapter. “We didn’t know what we were doing,” Barbara Shack said. “There was no real staff; it was all grass roots. We just battled, but everything just seemed to work.”

Barbara Bernstein directed the Nassau County Chapter for 32 years. Trained as a teacher, she was often mistaken for an attorney – a misimpression she never hesitated to correct. Yet, even without formal legal skills and training, she built an organization that achieved landmark civil liberties victories. “I have the utmost respect,” she said. “She was a force to be reckoned with in our community.”

The NYCLU is prominent role in developing the coalition’s strategy across several fronts, including legislative lobbying, public education and fundraising. Across every corner of the state, hundreds of businesses and organizations have signed on in support of this ground-breaking legislative package.

“The Women’s Equality Agenda has provided a unique and exciting opportunity to bring together advocates from a number of issue areas,” said John Curtin, director of the NYCLU’s Western Regional Office. “Together with our coalition partners we have been able to effectively thwart our opponents’ attacks and focus on the incredible impact this agenda seeks to create across the state.”

The campaign for the agenda isblanketing the state. On April 4, regional press conferences hosted by local leaders and advocates drew attention across the state. Each of the NYCLU’s seven chapters and regional offices outside New York City were instrumental in organizing these press events and forging regional coalitions in support of the campaign.

Lower Hudson Valley Chapter Director Daniel Berger attended and spoke at the April 4 event in Westchester County.

“We have really focused on putting boots on the ground in regards to our regional coalition work, wherever people are talking about issues that affect women we want to be there talking about the importance of the Women’s Equality Agenda,” Berger said.

Central New York Chapter Director Barrie Gewanter said the local organizing will help in lobbying key legislators to support these progressive reforms.

“This is a genuine statewide effort,” Gewanter said. “We’re rallying support locally that will be instrumental in convincing local legislators to get on board and support the Women’s Equality Agenda.”


“About 70 percent of children of single mothers in New York are classified as poor or low income,” Rich said. “Several of the Women’s Equality Agenda’s provisions – such as measures to close the wage gap and protect mothers and pregnant women from workplace discrimination – will provide much-needed financial stability for female-headed households in Rochester and statewide.”

The agenda’s reproductive health provisions have drawn the most amount of criticism from the small, vocal minority. However, a Siena Poll released in March showed that more than 80 percent of New York voters across religious and political spectrums support enacting a law “protecting reproductive freedom for women, ensuring a woman’s right to make private health care decision regarding pregnancy.”

The campaign is organizing a lobby and rally day on June 4 in Albany to provide a final push for this landmark legislative package.

“We need to make sure opponents of equality do not have the last say,” said Katharine Bodde, NYCLU policy counsel. “We need to speak up for everyone from every single one of us. The NYCLU invites you to join us on June 4 as advocates from all over the state descend upon Albany to let legislators know that inequality is not an option.”

For more information about the women’s equality agenda or how you can Get on the Bus for the June 4th rally and lobby day please visit: www.nyclu.org/we
Claudia Angelos  
NYU Law Professor; teaching civil rights clinics in partnership with the NYCLU. NYCLU board member since 1993; board president 2002-08; current NYCLU General Counsel, representative to the ACLU National Board, and National ACLU Executive Committee member. I remain committed to devoting whatever useful experience and skill I have to the NYCLU. Its exceptional vigilance in protecting and advancing civil rights and liberties is needed now as much as ever; its statewide program is thriving; and its staff is brilliant, dedicated, and effective. I take pride in our passionate and hard-working board, which works in common cause with our gifted staff and enjoys the occasional lively disagreement. The Union and its board and staff are thankfully becoming younger and more diverse, yet we adhere to our core values and honor those who have lived our mission with opportunities to grow and gain experience. It responds to issues that inevitably crop up over the upcoming period of substantial political change, and I hope I can have positive impact on the injustices that can be observed around us.

Thomas R. Frey  
Attorney (retired) Harris Beach, Rochester. Member of the NYCLU Board since 1999 (President from 2008 to 2010); Multisectoral nominating Commission (chaired five years.) Member of the Statewide Presence Committee. Present Chair of the Campaign Finance Committee. Member of the Genesee Valley Chapter Board. NYCLU served on the Board of the Campaign for Fiscal Equity which fought for fair education funding for schools in New York, served on the NYCLU staff, wish to embrace. I would also work to increase our general membership. I will look forward to helping the NYCLU implement its initiatives statewide during the upcoming period of substantial political change, and I hope I can have positive impact on the injustices that can be observed around us.

Barbara Bernstein  
I started working for the NYCLU in 1974, a month after Richard Nixon resigned to the fate he so richly deserved, and I stayed as director of the Nassau Chapter till 1990. I moved to New York City in 1990 from NYU Law to litigate cases for the NYCLU through NYU’s clinical program. As our representative to the ACLU National Board and a member of its executive committee I support the national organization and promote the values and interests of the New York affiliate. And I continue to advise our board and staff as NYCLU’s general counsel. I believe in openness, community, and the value and pleasure of engaged debate. I am confident in the future of the NYCLU, which will both change and endure. I promise to stand with the membership, board and staff of the NYCLU in the cause of our most fundamental freedoms.

Jonathan Horn  
Attorney. Currently NYCLU President. Vice President 2009 –2010. Secretary 2003-2005. Member of Executive Committee 2003-to-date. Service on Numerous Board Committees. Delegate to ALCLU Biennial Conferences, ACLU Leadership Conference and ACLU Affiliate President’s Conference. Board Member since 2001. I’m passionate about the NYCLU and its work to defend the fundamental principles embodied in the Constitution. From fighting for marriage equality, to opposing the NYPD’s discriminatory “stop and frisk” practices, to protecting the right to protest, to advocating for the Women’s Equality Agenda, I have never been proud to be an NYCLUer. The board acts as the final arbiter of NYCLU policy and priorities. It exercises oversight to ensure that the NYCLU remains strong organizationally and financially. It responds to issues that inevitably crop up over the course of the year. A key part of my job as NYCLU President has been to set the board’s agenda and frame our conversations to ensure that we fulfill these crucial obligations.

Am I a Member? The NYCLU has nearly 50,000 members statewide, plus many thousands of supporters. To be a current member, you must have made a non-tax-deductible contribution to the NYCLU or ALCLU—notwithstanding any tax-deductible donations to the NYCLU—since February 1, 2012, or you must be a lifetime member. If you have any questions about your membership status, please call the NYCLU at 212.607.3364 or email kkole@nyclu.org.
Samantha Howell, Esq.

Pro Bono Coordinator, Prisoners’ Legal Services of New York, New York Civil Liberties Union State Board. Former officer in Albany Law School and Whittman College chapters of the NYCLU and WCLU, respectively.

I am excited and honored to be on the slate for elec-
tion to the NYCLU State Board. I have been involved with CLU activities since 2001, having joined a couple days after September 11. After spending nearly two years in law school, I began volunteering with the Capital Region Chapter of the NYCLU and participat-
ing in the various activities/committees of the chapter. During law school, I was an officer of our school chapter, and, in 2010, elected to the Capital Region Chapter board. I also serve on the NYCLU statewide campaign finance committee.

As a working student, serving in the public interest/pro bono arena for several years, I have had the opportunity to engage in issues concerning a wide range of vulnerable popula-
tions, from low-wage workers to homeowne-
s’ rights and the impoverished. As a young lawyer, I recognize the importance of the law – as well as social activism – in ensuring that people and their rights are protected.

My involvement with the NYCLU has been both valuable and enlightening. If elected, I look forward to sharing my experiences with – and learning from others, as well as working to increase membership and awareness of NYCLU’s legal efforts and its positions on civil liberty issues.

Thank you for your consideration.

Amanda Oren

I welcome the opportunity to serve a third term on the NYCLU Board. I served as chair of the education committee. This active committee researched and extensively discussed several issues that eventually resulted in the Board’s adoption of the “high-stakes” testing policy. I was a member of the chapter committee and worked as a liaison between the state board and the local chapter of the Genesee Valley NYCLU to continue this organization’s efforts to be an effective state-wide presence.

Twice, I served as chairman of the Liberty Confer-
ence organized by the Genesee Valley NYCLU. This event brought together 400 high school students to discuss, debate, and think about the implications of civil liberties. I have continued my involvement with this event as a volunteer facilitator in a teaching role. I served as an ambassador for the development department, meeting with donors as well as helping engage the local Genesee Valley board as ambassadors.

Currently, I am a member of the governance com-
mittee. As a member of an adhoc committee on the restructuring of the ACLU national board, I worked to review and revise the amendments we believe are critical to the future of the ACLU and the NYCLU.

I am serving my second year on the executive com-
mittee and have actively participated in the work of that committee.

As a public defender, I work to protect my clients’ constitutional rights daily. If reelected, I will continue to work with the Board to protect all of our civil liberties and offer representation from across New York State.

Lara Rios

Attorney, Latham & Watkins LLP, current Board member and Treasurer of the NYCLU. Member of the LatinJesus- tice Network and a member of the New York City Bar. As a native New Yorker, I’ve always believed that what happens in New York sets the tone for the rest of the nation. That is why the work of NYCLU is invaluable. As our nation discusses the issues of equal marriage, immigration reform, prisoners’ rights and racial profiling, the NYCLU is front and center not only advocating for the rights of minorities and focusing our community leaders’ attention on the issues of justice but helping to frame the debate and shaping solutions to each of these issues. Over the past few years, I’ve had the privilege of serving on the Board of Directors. Most recently, I’ve had the opportunity to serve as Treasurer of the NYCLU. During this time, we have accomplished much. I have been most proud of our organization’s work to secure equality for all New Yorkers and our pas-
sioned advocacy to stop the NYPD’s abusive stop & frisk and “clean hails” policies. I’ve also been incredi-
bly proud of the work that we have done as an organiza-
tion to engage young persons – both young professionals who serve as ambassadors for our organization as well as students and teens who are our future members and voices. I welcome the chance to remain on the Board and continue to help the members of our organization achieve the vision of equal justice for all. Thank you.

Donna Schaper

I want to further the many NYCLU priorities with which I have been associated in my work in New York City. The reproductive rights act, the protection of im-
migrants, Stop and Frisk, censorship and police monitor-
ing – each have taken portion of my congregation’s time over these years. In the NYCLU I see a major partner and ally to the work I do with multiethnic, progressive faith communities in New York City.

I have been ordained in the United Church of Christ for nearly forty years and senior minister at Judson Memorial Church for eight. Previously in congregations in Miami, New Haven, Chicago and Philadelphia, I have spent my life in ministry from a parish base. I was also one of the first women trained by Saul Alinsky in the art of community organizing.

In New York I am founder and first president of the New York City New Sanctuary Movement. I am also a founder of Occupy and Occupy Faith. Occupy Faith created the golden calf in the shape of the Wall Street bull, which continues to dominate the New York movement. More recently, I have been active in Oc-
cupy Sandy, which advocates mutual help in the face of natural disasters.

In my interim term, our work has focused on people on the verge of detention and deportation, through an appointment program and advocacy to get ICE out of Rikers, while accompanying dozens of people to their check-ins. Through Occupy Faith we have focused most recently on unfair debt and banks.

Wendy Stryker

Counsel – Frankfurt Kurnat Klein & Szel, P.C.

It has been my great honor and pleasure to have
joined the NYCLU Board in December in an interim position. It is truly an exciting time for NYCLU. The current political climate provides great opportunity for progress in so many core areas including women’s is-
sues, voting rights and democracy, immigration, racial justice and L.G.B.T. rights.

In my professional life I am an employment lawyer with a long history of work in the areas of civil rights and defamation defense, including significant litigation bringing anti-SLAPP counterclairs against landlord groups attempting to stifle the First Amendment rights of community organizers. I am also a member of my firm’s pro bono and diversity committees and have deep interest and commitment to workplace fairness and gender equity issues.

In my interim term, I have already been active in raising funds and public awareness for the Women’s Equality Agenda and in serving on other subcommittees. I look forward to the opportunity to use my interests, experience and relationships to further the work and agenda of the NYCLU and expand upon the work I have begun to do.

Ria Tabacco Mar

Assistant Counsel, NAACP Legal Defense and Educa-
tional Fund (LDF)

As a native New Yorker, I have long admired and respected the work of the NYCLU. As a lawyer dedi-
cated to racial justice work, I have gained the opportu-
nity to work on civil rights issues that complement, and at times parallel, the work of the NYCLU. If elected, the Board, I would bring to the role my perspective as a civil rights lawyer coupled with a deep commitment to civil liberties.

Most recently, I assisted in drafting a friend-of-
the-court brief submitted to the U.S. Supreme Court in Windsor v. United States, in which LDF urged the Court to apply heightened associatio
tion laws, like Section 5 of the Defense of Marriage Act, that disadvantage gays and lesbians as a class. As I wrote for Ebony.com, “legal distinctions based on sexual orientation—like those based on race and national origin—are intended to mark the minority group as inferior.” Windsor illustrates the benefits of applying a racial justice lens to other contem-
porary civil rights problems.

My work at LDF builds on a history of advocating on behalf of black and brown New Yorkers. Each of my professional experiences, as well as my own life experi-
ce as a woman of color, have contributed to my view of the need to ment to civil rights and civil liberties. I would welcome the opportunity to serve the NYCLU as a member of the Board of Directors. Thank you for your consideration.

Ronald Tabak

It is my privilege to seek re-election to the NYCLU Board.

I have devoted most of my career to pro bono activi-
ties, including representing death row inmates, fighting capital punishment, chairing the City Bar’s civil rights committee, and co-chairing a special state bar committee.

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on re-entry from prisons and jails. Underlying all this has been my support of civil liberties – without which, everything else is in danger.

My NYCLU service has included chairing the Governance Committee – which has achieved compliance with numerous best practices, serving on the Statewide Presence and Chapter Committees – whose collaboration has made the organization’s statewide activities far more coherent, membership on the Executive Committee – including suggesting a policy that enables the Board to have a real sense of what will be in the proposed budget long before the Board votes on the budget, and being the Secretary – in which role I promptly prepare draft minutes that are circulated well before Board meetings and rarely evoke disagreement.

I participate actively in Board and Executive Committee discussions with the aim of achieving consensus after there is clear understanding of the subjects at hand.

I have also led the NYCLU’s efforts to focus on such important subjects as ill-considered police interactions with people of color, the horrendous quality of much indigent criminal defense, discrimination against people of the same gender who are in committed relationships, and threats to women’s right to choose. I hope to stay on the NYCLU’s front lines in such crucial areas.

Maria L. Valentin
HS Teacher / Adjunct Professor Westchester County and Immigration Attorney; Chair, LHV Chapter of the NYCLU

I am a zealous supporter of civil rights, particularly for women’s equality, immigrant rights, prison reform, equal education and many of the other issues that the NYCLU supports. Presently, our civil rights are under attack, and we need warriors in the fight to protect these rights. I would be honored to serve as a warrior in this struggle.

As a Latina Teacher of History and an Attorney, I have served as an advocate for social justice throughout my life. As a native of Newark, NJ, I was witness to the discriminatory and disparate treatment that Latinos, African Americans and others faced in urban areas, particularly when it came to housing, education and the legal system.

As a public school teacher in NYC and Westchester County, and a former School Board member, I have worked zealously to ensure equal opportunities for many students of color and/or of immigrant background. In my various “hats,” I speak to numerous groups throughout the region on voting rights, gender rights and reproductive freedom, immigrant rights. I have organized various programs to raise awareness of these issues to those most affected by them and to the community at large.

I want to bring my energy to promote the causes for which the NYCLU fights. At its essence, it is the fight for human dignity. I welcome your support.

New York City Council Set to Establish Inspector General to Oversee NYPD

Thanks to the advocacy of the NYCLU and its partners in Communities United for Police Reform, a super-majority in the New York City Council has agreed to pass legislation to establish an inspector general to provide independent oversight of the NYPD.

On March 19, Council Speaker Christine Quinn announced that the City Council had reached agreement on key provisions of legislation establishing an Office of the Inspector General. The proposal is part of the Community Safety Act – a landmark police reform package designed to end discriminatory policing and bring real accountability to the NYPD.

“We’re gratified that the council has agreed to pass an inspector general bill that will create meaningful oversight and mechanisms to investigate police practices,” NYCLU Executive Director Donna Lieberman said. “We look forward to prompt action to pass key provisions of the Community Safety Act that are essential to meaningful reform, including the ban on racial profiling.”

The Office of the Inspector General would examine systemic issues within the NYPD and provide effective oversight, with subpoena power, to protect New Yorkers from abuses and misconduct. Inspectors general monitor the FBI, CIA, LAPD and every major New York City agency except for the NYPD.

“As an inspector general will provide much-needed independent oversight of NYPD practices like stop-and-frisk that affect the civil rights of millions of New Yorkers,” NYCLU Senior Organizer Candis Tolliver said. “It will provide an important check on the NYPD that will ultimately lead to a safer streets and stronger police-community relationships.”

The remaining legislation composing the Community Safety Act would create a strong ban on profiling by the NYPD and expand protections against profiling based on age, sex, gender identity or expression, sexual orientation, immigration status, housing status, language and disability, in addition to race, religion or ethnicity.

Council members Jumaane Williams and Brad Lander, who are prime sponsors of the inspector general bill, agree with the NYCLU and CPR that to have a meaningful impact on reigning in out of control NYPD practices, the Council must pass this critical legislation.

NYCLU Challenges Discrimination at Albany-Area Wedding Venue

Like myriad couples before them, fiancées Melisa Erwin and Jennie McCarthy wanted to find a serene and rustic setting for their wedding.

Liberty Ridge Farm, about 25 miles north of Albany, advertised “indoor and outdoor wedding venues with breathtaking views that dazzle and delight.” The website offered “the ultimate in country elegance – a picturesque setting for weddings all year round!”

But the farm’s promised charms turned sour when owners Cynthia and Robert Gifford rejected the couple’s request to wed this summer in the vaulted, Dutch-style timbered barn. Same-sex couples were not welcome to marry there, Cynthia Gifford said.

“Having your relationship judged as somehow unworthy of marriage is heartbreaking. If we want to ensure that other couples do not have to undergo the same treatment,” Erwin said.

“We believe no one should ever have one of the happiest times of his or her life clouded by discrimination and bigotry,” McCarthy added.

Discrimination based on sexual orientation is expressly barred under New York’s Human Rights Law, which prohibits public accommodations – establishes downtown office spaces and other public accommodations – that discriminate on the basis of sexual orientation.

Under the Marriage Equality Act – the 2011 state law that gave same-sex couples the freedom to marry – churches and ministers are not required to perform religious marriage ceremonies for same-sex couples.

Nothing in the marriage law or existing anti-discrimination laws allows non-religious businesses open to the public to discriminate against same-sex couples.

The New York State Division of Human Rights, which investigated the complaint, determined in January 2013 that Liberty Ridge Farm is a public accommodation because it advertises in print media for its wedding and catering services, and because it offers other public entertainments, including Easter egg hunts, pumpkin patches and other seasonal celebrations. Additionally, the Division of Human Rights determined that probable cause exists to believe that the farm engaged in discrimination, violating New York State Human Rights Law.

A date for a public hearing by the Human Rights commission is expected soon.
NYCLU Scores Court Victory Against NYPD Stop-and-Frisk Abuse

In a landmark court ruling issued Jan. 8, a federal judge has found that the NYPD’s pattern and practice of stopping and interrogating innocent people in public areas outside thousands of private apartment buildings in the Bronx is unconstitutional. The ruling is a major victory in the movement to end stop-and-frisk abuse and comes in the NYCLU’s federal class-action lawsuit challenging the enforcement of Operation Clean Halls – a citywide program within the NYPD’s stop-and-frisk regime that allows police officers to patrol in and around certain private apartment buildings.

U.S. District Court Judge Shira A. Scheindlin also found that for years the NYPD has known or should have known that its officers routinely violate constitutional rights through the Clean Halls program by stopping people without suspicion outside Clean Halls buildings. Nonetheless, the Police Department has failed to adequately train officers about when they may legally make outdoor trespass stops, and that this practice “has risen to the level of deliberate indifference.”

“Judge Scheindlin’s decision is a major step toward ending the NYPD’s unlawful stop-and-frisk practices,” said NYCLU Associate Legal Director Christopher Dunn. “Operation Clean Halls has placed New Yorkers, mostly black and Latino, under siege in their own homes in thousands of apartment buildings.”

Judge Scheindlin ordered an immediate halt to trespass stops outside “Clean Halls” buildings unless the officer has a “reasonable suspicion” that a violation has occurred. While the judge originally ordered the NYPD to cease all stop-and-frisk practices in association with the Clean Halls program, she later agreed to allow the program to continue until a remedy can be decided in conjunction with the ongoing Floyd v. City of New York federal class-action lawsuit challenging the entirety of the NYPD’s stop-and-frisk regime. That lawsuit, which went to trial on March 18, was filed by the Center for Constitutional Rights.

“What comes from the Operation Clean Halls case is going to result in a major step toward dismantling the NYPD’s out-of-control abuse of street interrogations,” said NYCLU Senior Staff Attorney Alexis Karteron. “This stop-and-frisk program has placed too many New Yorkers, overwhelmingly black and Latino, under siege in their own homes. This aggressive assault on people’s fundamental rights must be stopped.”

Stop-and-Frisk Watch: Now Available for iPhone

The NYCLU in February unveiled an iPhone version of Stop-and-Frisk Watch – our free smart phone application that empowers New Yorkers to hold the police accountable for abusive stop-and-frisk encounters. Stop and Frisk Watch, which has been available on Android phones since June and has been downloaded by more than 20,000 New Yorkers, allows bystanders to fully document stop-and-frisk encounters and alert community members when a stop is in progress.

This innovative technology has three primary functions:

- **Record:** This allows the user to film an incident with audio. Shaking the phone stops the filming.

- **Alert:** When filming stops, the user immediately receives a brief survey allowing them to provide additional details about the incident. The video and survey go to the NYCLU, which uses the information to shed light on the NYPD’s stop-and-frisk practices and hold the Department accountable for its actions.

- **Listen:** This function alerts the user in real time 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 especially useful for community groups who monitor police activity.

- **Report:** This prompts the survey, allowing users to report a police interaction they saw or experienced, even if they didn’t film it.

Stop-and-Frisk Watch was selected as an honoree in the 17th Annual Webby Awards – the leading international award recognizing excellence on the Internet – in the category of “Best Use of Device Camera.” More than 10,000 entries vie for Webby awards each year.

“We’re extremely proud and excited to see our work recognized on such a prominent, international platform,” NYCLU Executive Director Donna Lieber said. “Kudos to app developer Jason Van Anden and Communications Director Jennifer Camig who have shown that we can use technology to strengthen and expand civil liberties.”

To download the app, visit nyCLU.org/app. -

Ms. Windsor Goes to the Supreme Court

Hirose and addressed the press afterward alongside Windsor.

“New York law says marriage is open to all couples, straight or gay, and New York’s thousands of newly married same-sex couples are respected and treated as married in all ways by the state,” Lieberman said. “But so long as DOMA is on the books, these marriages are not truly equal. The federal government should never have imposed those taxes on a married straight couple. Rather than accept this discrimination, Windsor filed a lawsuit challenging DOMA.

Windsor, who achieved the highest technical rank as a software programmer at IBM, and Spyer, a clinical psychologist, met in Greenwich Village the 1960s and lived together for more than four decades in New York City.

One day in 1965, Spyer 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 circular diamond brooch 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.”

In 1977, Spyer was diagnosed with progressive multiple sclerosis. Windsor cared for her through a long battle with that disease, which eventually resulted in Spyer’s paralysis.

The couple got married in Canada in 2007, following the 42-year engagement. “Many people asked me ‘why get married?’ I was 77 and Thea was 75. The answer is that marriage is different,” Windsor said standing outside the Supreme Court. “When our marriage appeared in The New York Times, we heard from literally hundreds of people … all congratulating us and sending us love because we were married. So it’s a magic word. For anyone who wants to understand why we want it and why we need it: It is magic.”

In upholding a district court decision in Windsor’s favor, the U.S. Court of Appeals for the Second Circuit ruled that “Section 3 of DOMA violates equal protection and is therefore unconstitutional.”

The Supreme Court argument occurred the day after the justices heard argument in Hollingsworth v. Perry, which concerns whether the U.S. Constitution requires California to allow gay and lesbian couples the free-
dom to marry. The back-to-back arguments on marriage occurred amid a frenzied atmosphere outside the court where supporters and opponents of fair marriage lawsammered.

The first hour of the oral argument in Windsor’s case involved technical issues over whether the court had jurisdiction to hear the case, though it seems unlikely that those issues will prevent the court from ruling on DOMA’s constitutionality. The second hour of argument dealt with the merits.

At least five of the justices appeared to seriously question DOMA’s constitutionality.

Justice Anthony Kennedy, the crucial swing vote, seemed to suggest that the law is a federal intrusion on the states’ power to regulate marriage.

“You think Congress can use its powers to subvert the traditional authority and prerogative of the states to regulate marriage in all respects?” Kennedy asked of Paul Clement, the attorney arguing for DOMA’s constitutionality.

The court’s four liberal justices appeared to question DOMA’s constitutionality on the basis that the law violates equal-protection principles.

Justice Ruth Bader Ginsburg drew laughs when she remarked that DOMA effectively created “two kinds of marriage: the full marriage, and then this sort of skim milk marriage.”

The Supreme Court is expected to decide in both marriage cases in June.

To read more about the case, visit: www.nyCLU.org/windsor

Edie and Thea were together for 44 years. Edie helped care for Thea during a long battle with multiple sclerosis. But when Thea died, the federal government treated them like strangers. And that’s just wrong. Clockwise from top left: Tha Spyer, left and Edie Windsor, right. Windsor walks in the 2012 NYC Pride Festival. Spyer, left, and Windsor. Photos courtesy of a Very Long Engagement and John Drirten."
T

he NYCLU noted a patch of important legal vic-
tories in lawsuits seeking to improve conditions at
Long Island’s county jails.

On March 19, a federal judge granted class-action
status to a lawsuit filed by the NYCLU and the law
firm of Shearman & Sterling challenging deplorable
deterioration of conditions in Suffolk County jails.

The following week, the NYCLU won a separate lawsuit
challenging Nassau County’s failure to comply with a
23-year-old unfunded charter mandate to establish an
independent board charged with overseeing con-
finement conditions at the Nassau County Correctional
Center – where for years county officials have failed to meet
their obligation to provide prisoners adequate medical and
mental health care.

In the Suffolk County case, U.S. District Judge
Joanna Seybert granted certification and denied a
motion to dismiss by prison officials based on their
contention that the court lacks jurisdiction.

“This decision recognizes our allegations that the
inmate conditions at the jails are the uniform product of
decades of neglect and indifference by county offi-
cials that has resulted in the cruel, inhuman, and degrading
use of solitary confinement for non-violent, even petty
misbehavior,” said NYCLU Legal Fellow Elena Landriscina, in support
of the class certification of Ms. Fenton’s case.

Tonja Fenton was a mother of two teenage sons, spent 23
days a day locked down in a tiny, barren cell. The
prolonged isolation damaged her physical and mental
health. After her release from prison, she was some-
times overcome by sudden impulses to scream. She
talked to herself just to hear a voice. Her family recog-
nized dramatic changes that Tonja fears may be perma-
nent. She speaks differently, is less focused when she
speaks, does not complete one thought before jumping
to the next, and snaps impatiently.

Tonja is a new plaintiff in People v. Fischer, a
federal lawsuit challenging New York prison officials’ poli-
cies and practices that result in the arbitrary, inhu-
mane and unconstitutional use of solitary confinement
in state prisons. In March the NYCLU and the law firm
of Morrison & Foerster filed an amended class action
complaint in the lawsuit seeking to extend its scope to
include all individuals incarcerated in state prisons simi-
larly affected by the state’s use of solitary confinement.

“Tonja’s case typifies the state’s all-too-common
arbitrary and unjustified use of solitary confinement as
punishment,” said NYCLU Senior Staff Attorney Taylor
Pendergrass, lead counsel on the case. “In the case of
someone like Ms. Fenton – who will soon be released
here in Upstate SHU – … They kept writing this prisoner
an answer that he can take nothing away from him.”

The NYCLU has also taken the case to international
human rights bodies. In February, the NYCLU and
CAIC petitioned United Nations Special Rapporteur on
Torture Juan Mendez, citing the grave physical and men-
tal harm linked with solitary confinement as an in-
novation of New York’s arbitrary and capricious practice of
wholesale solitary confinement. In an August 2011
report, the Special Rapporteur on Torture concluded that
the use of solitary confinement can amount to torture or
cruel, inhuman or degrading treatment or punishment
that is proscribed by the International Covenant on Civil
and Political Rights and under the U.N. Convention
Against Torture.

The NYCLU’s petition charges that essential hu-
man rights protections are implicated by New York’s
solitary-confinement practices, which lack safeguards,
endanger the health and safety of the individual and her fam-
ily, and impose humiliating and dehumanizing conditions
that are specifically designed to terrorize, and particularly affect vulnerable populations, including
youthful and elderly prisoners and those with mental
illness. In response, Mendez has asked the federal
government to provide information about New York’s
solitary-confinement practices and specific individuals
held in isolation; a statement by the Special Rapporteur
is anticipated in early summer 2013.

In March, the NYCLU submitted testimony to
the Inter-American Commission on Human Rights, drafted
by NYCLU Legal Fellow Elena Landriscina, in support
of a request made by numerous organizations that the
Commission investigate the use of solitary confinement
in the United States and issue guidance to ensure that
the United States complies with international law and
human rights standards, protecting the basic health,
safety, and dignity of all individuals, including the incar-
cerated.

The petition quoted a November 2012 letter from
an individual held in isolation at the Special Housing
Unit (SHU) at Upstate Correctional Facility in Malone, New
York:

“I am writing your office concerning the death of a
minor ill prison prisoner. The prisoner recently hung himself
here in Upstate SHU. … They kept writing this prisoner
up with misbehavior reports while he came to SHU on
a minor incident years ago. Instead of giving him treat-
ment, they chose to keep him suffering alone in a cell.
This is definitely a case of abuse of human life.”

Looking forward, legislation to permanently reform
solitary confinement in New York, drafted by NYCLU
and the CAIC, will be introduced in the current legisla-
tive session.

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

$500 $250 $100 $50 Other

NAME __________________________________________
ADDRESS _______________________________________
CITY ___________________________________ STATE ______
ZIP ________________________________________
CARDHOLDER NAME ______________________________
ACCOUNT # ________________________ EXP DATE __________
SIGNATURE _______________________________________

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YES, I will be there for the New York Civil Liberties Union!
In the coming year we will:
• Secure equity and reproductive freedom for women
• Establish fair and just policing practices
• Achieve full recognition of same-sex marriages
• Reduce school suspensions and bullying
• Protect immigrants from discrimination and unlawful detention

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