



NYCLU NEWS

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Lawsuit Says State Failing Poor Criminal Defendants



Photo by Pete Kane

Dorothy Thomas, the girlfriend of plaintiff Ricky Lee Glover, joins NYCLU Executive Director Donna Lieberman on the steps of the State of New York Court of Appeals right after the public defense lawsuit was filed. Glover, a Syracuse resident, has languished in jail since June, with minimal contact from his attorney.

New York State is failing in its constitutional duty to provide effective counsel to poor New Yorkers accused of crimes, according to a landmark lawsuit filed by the New York Civil Liberties Union. As it stands, the state's broken public defense system routinely denies criminal defendants their constitutional right to a competent attorney.

The lawsuit, filed in State Supreme Court in Albany on Nov. 8, followed years of inaction by state lawmakers despite the county-operated public defense system's clear failures, documented over decades by dozens of reports, commissions and newspaper investigations. Last year, a commission appointed by state Chief Judge Judith S. Kaye concluded the system is "severely dysfunctional" and "structurally incapable" of meeting its "constitutional and statutory obligations" to protect the rights of the accused.

"Every day throughout the state, people accused of crimes are deprived of justice because they are poor," said Donna Lieberman, executive director of the NYCLU. "The time for study is over. Now is the time for action, and the NYCLU is leading the effort."

The 100-page complaint lists 22 plaintiffs from five counties. They seek reform on behalf of all criminal defendants in the state who cannot afford a lawyer.

The class-action lawsuit asks the court to de-

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"Every day, in courtrooms throughout the state, New Yorkers are denied justice simply because they are poor. Justice should not depend on your ZIP code or the size of your wallet."

NYCLU Topples Patriot Act Rule

In September, U.S. District Judge Victor Marrero struck down a part of the amended Patriot Act that allowed the FBI to issue National Security Letters, informal secret demands for private records from banks, libraries, phone and Internet companies, and other businesses.

The New York Civil Liberties Union and American Civil Liberties Union filed a federal lawsuit in April 2004 challenging the measure. Judge Marrero invalidated the NSL provision in September 2004. The government appealed Marrero's ruling, but Congress amended the NSL provision before the court rendered a decision. In May 2006, the appeals court asked the district court to consider the constitutionality of the amended law.

Arthur Eisenburg, legal director of the NYCLU, was a lead attorney in the case:

What is a National Security Letter?

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

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

How long has the government issued them?

The legislation authorizing the FBI to issue NSLs was enacted in 1986 as part of the Electronic Communications Privacy Act. The 1986

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Words from NYCLU Executive Director Donna Lieberman

A slow and steady march towards a better New York

As revelations surfaced this winter that the CIA destroyed video tapes containing evidence of torture, yet another example of official lawlessness, Americans – indeed people the world over – were aghast. I am proud to say that the New York Civil Liberties Union and the American Civil Liberties Union sprang into action. Within days we went to court to have the agency held in contempt.

Our team remains vigilant in this case and on all human rights issues. Emboldened by a record of more than 50 years effectively defending civil liberties, the NYCLU is right now doing its best work – work that is improving the lives of New Yorkers.

Major accomplishments mark this past year.

In November, we filed a landmark class action lawsuit to require New York State to provide adequate legal representation to poor people accused of crimes. There is nearly universal agreement that the current system is broken. No fewer than a dozen government commissions, expert investigations, and reports by some of the most respected leaders in our legal community have concluded that the state has failed to meet its constitutional obligations. A commission appointed by New York's chief justice herself concluded in June 2006 that the system is "severely dysfunctional" and "structurally incapable" of providing proper legal representation.

We faced countless challenges while preparing the lawsuit. The effort consumed vast amounts of time and resources. But thanks to the extraordinary dedication and expertise of our Legal Department, our Chapter network and the pro bono counsel of Schulte Roth &

Zabel, as well as the critical support of Atlantic Philanthropies, we hope this lawsuit will become New York State's *Gideon v. Wainwright*.

We're setting agendas in other ways, too. A year ago, we were a lonely voice objecting to the jail-like atmosphere of many schools. But between our policy report *Criminalizing the Classroom* and our advocacy campaign, the School to Prison Pipeline is no longer ignored. We were instrumental in securing a day of hearings before the New York City Council where the NYCLU and scores of students and parents testified about the heavy-handed police presence in city schools. The hearings made clear that the Department of Education and the NYPD don't really know who is responsible for enforcing school rules – and that our children are paying the price.

Our advocacy prompted New York Times columns and editorials, and a full-page attack by NYPD Commissioner Ray Kelly in the *New York Daily News*. While I'm proud we have played such an important role raising this issue, we still have a long way to go before educators regain control over school discipline.

In a First Amendment victory, the NYCLU was instrumental in persuading New York City to drop proposed rules that would have required a permit and \$1 million of insurance for virtually all photography and filmmaking in public places. These rules would have muzzled artists, journalists and casual photographers. We rallied scores of filmmakers and photographers to demand a new proposal. The city rescinded its plan in August, and negotiated with the NYCLU on a new set of rules. Under the new proposal, photographers would generally not need a permit or insurance unless they block the sidewalk.

We are hopeful about these new rules, but we harbor no illusions that the harassment of photographers will end, so we just filed our second lawsuit in as many years, this time on behalf of a Columbia medical student arrested for taking pictures in the subway, demanding the NYPD leave photographers alone.

Our reach extends across the state. Phone calls from Albany illuminate our switchboard. The state Legislature has lobbied us heavily about the congestion pricing proposal, which is intended to reduce traffic in Manhattan. While we are neutral on congestion pricing as a concept, we have called on policy makers to address our concerns about the increased government surveillance it entails. If the current plan were implemented, thousands of government cameras would constantly

record law-abiding people. There must be a public discussion about these privacy concerns, and safeguards to protect us from abuse.

In September, our Reproductive Rights Project issued a report on abstinence-only-until-marriage funding. That same day the state health commissioner called to say that New York would reject millions of dollars in federal funding for abstinence programs and redirect state funding toward comprehensive sex education. Our children need full, unbiased and useful information regarding sexual health. Thanks to our work, they're one step closer to getting it.

On a Saturday morning in October, Governor Spitzer appeared in Washington, D.C. for a photo op with Homeland Security Secretary Michael Chertoff to announce that New York would be the first state in the nation to sign onto the Real ID Act, a plan that would create America's first national identification card.

A few weeks later, the governor announced he is holding off on Real ID. It's a good first step – Real ID is a grave privacy threat. But we have a long way to go. So we launched a statewide campaign to "Protect American Values: Reject Bush's Real ID Act."

The NYCLU is waging many major battles across the state, and we're winning as we go. We know that if the NYCLU doesn't do this work, it won't get done. In the year ahead, we look to increase our membership and our might by recruiting a new generation of civil libertarians. Our fifth annual concert, *Broadway Stands Up for Freedom!*, was a huge success, with Broadway stars taking the spotlight in support of our youth work. Save the date: This summer's concert, scheduled for July 21, will be even bigger.

Coupled with that effort is a new NYCLU group of young professionals who are finding ways to attract New Yorkers between the ages of 25 and 40 to our cause. Charged with fundraising and "friendraising," the group is poised to do great things in 2008.

In an election year people tend to pin their hopes and dreams on their political leaders. We know better than to wait for politicians to lead. There is too much to do. No matter who wins the presidential election, the NYCLU is ready to face the enormous tasks ahead. Visit our new web site (www.nyclu.org) regularly and find out how you can get involved. Sign up to get e-alerts and check out our events calendar. Help us lobby our officials and write letters to the editor.

Thank you for your continued support, and please keep on fighting. 🗣️

In the News: Real ID Act

President Bush's national ID card isn't about immigrants or the DMV

While it is encouraging that Governor Spitzer is holding off, for now, on implementing the Real ID Act in New York, the governor needs to put an end once-and-for-all to New York's participation in President Bush's national ID card scheme. New York was the first state to enter into a contract with the federal government and promise to implement the Real ID Act. We are now a step closer to the creation of a national database that can be used to track lawful New Yorkers' everyday activities.

What starts as a swipe of the card to board an airplane or enter a federal building, which the Real ID Act already demands, could easily expand into requirements to scan the card to pick up your child from school or to attend a baseball game. With each swipe of the card, a digital fingerprint will be left behind, though how it will be used is far from clear. Coming from the administration that brought us the Patriot Act and warrantless wiretapping, the possibilities are endless, as is the potential for abuse.

New York does not have to submit to President Bush's Real ID Act. In fact, the Real ID Act contains so many threats to our privacy, security and pocketbooks that 17 states have already passed legislation critical of it. Governor Spitzer must join with bipartisan movement of Democratic and Republican governors across the country that has rejected the Real ID Act as a threat to



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

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

Capital Region Chapter

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

Central New York Chapter

Barrie H. Gewanter, Director
753 James St St., Suite 8, Syracuse NY 13203
315.471.2821

Genesee Valley Chapter

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

Nassau County Chapter

Tara Keenan-Thomson, Director
33 Willis Ave., Suite 100, Mineola NY 11501
516.741.8520

Suffolk County Chapter

Seth Muraskin, Director
1 Touro Law Center, 225 Eastview Dr., Central Islip NY 11722
631.423.3846

Lower Hudson Valley Chapter

Linda S. Berns, Director
297 Knollwood Rd., White Plains NY 10607
914.997.7479

Western Regional Office

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

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

NYCL...YOU Meet Volunteer & Donor Rebecca Weiss

Rebecca Weiss has been a volunteer with the NYCLU for more than five years. In her role in legal intake, Weiss fields legal questions, helps find potential cases for the NYCLU to take on and directs those with legal problems to other resources.



Photo by Tom Tyburski

We caught up with Rebecca to ask her some questions about her thoughts on the NYCLU and civil liberties, as well as find out a little about the person behind the volunteer.

Why did you become involved with the NYCLU?

I have been doing this for years. My husband and I were an active part of the Connecticut Civil Liberties Union many years ago. I started volunteering here over five years ago. I really believe in the mission.

What are the most important issues we face today?

Preserving the constitution ... the war. These are terribly important issues that we need to face if we are going to survive. It's important for us to remain democratic, and we definitely need to stop policing the world.

If you could, what would you say to the membership?

To become actively involved beyond paying one's dues.

What have you learned about civil liberties as a result of your volunteer work?

How endangered they are.

Do you want to get involved? Visit www.nyclu.org to find out how. 🗣️

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Reproductive Rights Project Takes on Phony, Taxpayer-Funded Programs

NYCLU Instrumental in State Rejecting Abstinence Money

The New York Civil Liberties Union released a report in September showing that the state's taxpayer-funded abstinence-only-until marriage programs endangered youth by leaving them unprepared to make healthy decisions about sexual activity.

Before the NYCLU had finished its press conference to unveil the report, State Health Commissioner Richard F. Daines announced that New York would reject millions of dollars in federal funding for abstinence programs and redirect state funding toward comprehensive sex education.

Daines called the Bush administration's abstinence-only-until-marriage program "an example of a failed national healthcare policy directive, based on ideology rather than on sound, scientific-based evidence that must be the cornerstone of good public healthcare policy."

Donna Lieberman, NYCLU executive director, applauded the NYCLU's Reproductive Rights Project for drawing the state's attention to the failure of abstinence-only-until-marriage programs.

"If only the state responded to all of our reports with such immediate, positive action," Lieberman said. "It is a credit to the hard work that Galen Sherwin and our Reproductive Rights Project put into reporting the failures of these programs and the need to provide children full, unbiased and accurate information regarding sexual health."

The report, *Financing Ignorance: A Report on Abstinence-Only-Until-Marriage Funding in New York*, chronicles an in-depth investigation of 39 abstinence-only-until-marriage programs statewide that received federal funding through 2006. The NYCLU's analysis revealed that:

- Abstinence-only-until-marriage curricula used across the state contain serious medical inaccuracies and employ fear-based teaching methods:
 - Curricula used by 22 programs inflate rates of STIs and HIV/AIDS and exaggerate the failure rates of condoms in preventing STIs, HIV/AIDS and pregnancy.
 - These same curricula rely on scare-tactics, presenting a list of dire consequences of pre-marital sexual activity; one curriculum includes in this list: "heart-break, infertility, loneliness, cervical cancer, [and] poverty."
 - Curricula used by seven programs contain falsehoods regarding abortion, telling students, for example, that an abortion could significantly endanger a young woman's ability to have children in the future. Five programs partnered with crisis pregnancy centers, organizations that frequently promote inaccurate and biased views about abortion.
- The same curricula demonstrate serious bias:
 - Gender stereotypes regarding the different

"natures" of girls and boys with respect to sexuality and relationships are presented as immutable, scientific facts. For example, one program teaches that "financial support" is one of the five "major needs of women," and "domestic support" is one of the five "major needs of men."

◦ Lesbian/gay/bisexual/transgender youth are either completely ignored or demonized as "unnatural."

- At least 19 of the funded programs focused a significant amount of programming on after school recreational activities with no direct relation to sex education.
 - Instructors were not required to have special training or expertise as educators.
 - Programs were not evaluated, or even required to evaluate themselves.
 - Religious groups received more than half (53 percent) of this government funding without adequate safeguards against proselytizing, and religious content was included in some of the programming.

Since 1981, the federal government has distributed more than \$1 billion for abstinence-only-until-marriage programs throughout the nation. New York had been the third-largest recipient of federal funding for such programs – behind Texas and Florida. In fiscal year 2006, New York accepted more than \$10 million in federal money, matched by nearly \$4 million in state funding.

New York's announcement means that federal funds granted under Title V, one of the main funding streams for abstinence-only-until-marriage education, will be discontinued. Beginning Oct. 1, the New York began redirecting state matching funds to expand comprehensive sex education in schools and other community settings. But community based organizations in New York State still receive \$5 million directly from the federal government. Congress recently voted to increase those funds by \$28 million.

Galen Sherwin, director of the Reproductive Rights Program, applauded the state's decision but said the government must do more.

"It's good that the state is shutting down programs that were misinforming adolescents, and even better that it is redirecting money to comprehensive sex

Abstinence-only-until-marriage programs in New York often use curricula that are riddled with inaccuracies and distortions:

CLAIM: Condoms are ineffective in preventing pregnancy 15 percent of the time during the first year of use. "This means that over a period of five years, there could be a 50 percent chance or higher of getting pregnant with condoms used as a birth control method."

FACT: The logic used to determine a 50 percent risk of getting pregnant is flawed. The risk remains the same from year to year and does not increase over time. Failure rates are largely due to inconsistent or incorrect use.

CLAIM: "If condoms were effective against [sexually transmitted diseases (STDs)], the increase in condom usage would correlate to a decrease in STDs overall—which is not the case. Rather, as condom usage has increased, so have rates of STDs."

FACT: The CDC has established that condoms reduce the risk of chlamydia, syphilis, gonorrhea and HIV infection, and that there is a relationship between condom use and lower rates of cervical cancer caused by the human papillomavirus (HPV).

education," Sherwin said. "But there is long way to go to ensure that New York's youth receive the information they need to make healthy decisions."

The report urges the state Legislature to pass the Healthy Teens Act, which would provide funding for school districts, boards of cooperative education services and community-based organizations to provide comprehensive sex education programs. It also recommends amending the State Education Law to require age-appropriate comprehensive sex education in public schools and calls on Congress to cease all funding of abstinence-only-until-marriage programs. 🗣️

touched by the plight of a mother of two accused of trying to smuggle a small amount of marijuana to her husband in prison. The woman, a plaintiff in the lawsuit, had little contact with her assigned counsel and expected to receive a six month prison sentence and lose her nursing license. She had no previous criminal record.

"A woman, who has been trying so hard her whole life, made one mistake and now her life is being rent asunder," Freeman said.

Thomas said it was difficult to listen to the inmate's stories knowing the lawsuit wouldn't necessarily help them in their individual criminal cases. Plaintiffs understood the broader picture, however, and knew that their participation might spare others from suffering similar injustices. 🗣️

New York State Failing Poor People Accused of Crimes

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clare New York's public defense system unconstitutional and order the state to assure that competent legal representation is provided to those accused of crimes who cannot afford to hire lawyers. At a minimum, the state must set statewide standards for public defense, establish an oversight mechanism, and adequately fund public defense services.

Filing the lawsuit required years of preparation, and the effort intensified in December after the NYCLU received an Atlantic Philanthropies grant. The law firm of Schulte Roth & Zabel joined the effort over the summer, providing much-needed pro bono support.

"The firm put so many hours into it," said Corey Stoughton, NYCLU staff attorney and lead counsel for the case. "Their attorneys really committed to this issue."

She also acknowledged Barrie Gewanter, director of the NYCLU's Central New York Chapter, and Melanie Trimble, director of the Capital Region Chapter.

Stoughton and Demetrius Thomas, a paralegal, began traveling the state in January to identify counties to name in the lawsuit. They interviewed defense attorneys, county executives, assigned counsel administrators and other officials involved in the public defense process. They chose counties that represented each of the three forms of public defense services that state law allows: a county public defender office, a private legal aid society or a panel of private assigned counsel. They also needed a geographically diverse group of counties that included rural and urban areas.

Finding counties with dysfunctional public defense services was easy. Onandaga, Schuyler, Washington, Suffolk and Ontario counties were named in the complaint but, "we could have thrown darts at a map of New York," Stoughton said.

The law firm joined the effort in the spring. By July, teams of attorneys were visiting the five counties to recruit plaintiffs. The attorneys spent hundreds of hours monitoring court proceedings and visiting county jails.

"We went out every day and saw the systemic problems handicapping public defense lawyers from doing their jobs," Stoughton said.

Court-appointed lawyers across the state are overwhelmed by huge caseloads and lack sufficient training, staff and resources. As a result, people facing criminal charges often are compelled to appear in court without a lawyer at critical junctures, such as when bail decisions are made. This results in unnecessary or excessive bail being set and keeps people in jail awaiting trial.

Many public defense lawyers fail to: consult with clients at important stages in their cases; investigate charges or hire experts who can assist with case preparation or testify at trial; file necessary pre-trial motions; and provide meaningful consultation before clients accept plea bargains, regardless of whether a charge is appropriate or a viable defense exists.

Daniel Freeman, an Arthur Liman Fellow at the NYCLU, was struck by the injustices he witnessed in Washington County courtrooms. "A sense develops that this is an entirely different system of justice than what you're taught to expect in law school," he said.

Freeman, a recent Yale Law graduate, was

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"Joy is an essential ingredient of art, and of democracy, it's the vitality that, as Sondheim has it, drives us to the difficult tasks, the hard work of putting it all together, step by step, law by law, civil liberty by civil liberty. Joy is civic and free, and that's why we're here, that's why Broadway Stands Up for the NYCLU."



Photos by Starpix

Daphne Rubin-Vega (the original Mimi in *Rent*), Tony-winner LaChanze (*Celie* in *The Color Purple*) and Pulitzer Prize-winning playwright Tony Kushner (*Angels in America*) were among the stars of the fifth annual Broadway Stands Up For Freedom! concert, a benefit for the NYCLU's youth programs.

A Powerful Tradition Continues for Five Years and Counting

Broadway Stands Up For Freedom, Supports Civil Liberties

On July 16, New York theater's finest came together for Broadway Stands Up for Freedom!, a benefit show to support the youth programs of the New York Civil Liberties Union.

Playwright Tony Kushner hosted the evening, which featured performances by Tony Award winners and Broadway stars including LaChanze (*The Color Purple*), Harriet Harris (*Thoroughly Modern Millie*), and Denis O'Hare (*Take Me Out, Assassins*).

Seth Rudetsky (*Seth's Broadway Chatterbox*) was musical director, and Daniel Goldstein (*Indoor/Outdoor, But I'm a Cheerleader: The Musical*) directed.

All proceeds from the concert benefited the dynamic youth programs of the NYCLU, which include campaigns to combat overly-aggressive policing and abusive military recruitment tactics in city public schools and a Teen Health Initiative that has trained thousands of high school students as peer educators.

Winners of the NYCLU's 2007 Student Expression Contest were honored at the event and spent time back stage with Broadway's brightest stars. Veteran



Student contest winners meet some of the stars of Broadway Stands Up For Freedom.

actor Denis O'Hare gave a stirring performance of the contest's winning poem, "Draft Me!" by 11th grader Cordell Jacobs.

Also presented was the first annual "Freedom of the Press" award for outstanding student journalism, given to *The Advocate*, published by the journalism class of the High School for Law and Public Service. Harriet Harris of *"Thoroughly Modern Millie"* read the story of Biko Edwards, a Brooklyn teenager who was assaulted by a school-based employee of the NYPD while walking to chemistry class and whose story was featured in the NYCLU's report, *Criminalizing the Classroom: The Over-Policing of New York City Schools*. 🗣️

An excerpt of Tony Kushner's Remarks

As you've probably read, George W. Bush has been whiling away his lonely hours recently in deep, deep conversation with philosophers and scholars and historians he's invited to the White House. Together they ponder the larger mysteries, like: why does everyone hate me? Why doesn't Jesus make the Iraqis do what I tell them to? What the heck is a stem cell, anyway? And how come Jerry Falwell doesn't call me anymore like he used to?

Since he's President, Bush can summon to the White House any philosopher, scholar or historian he wants — Dr. Phil, Camille Paglia, Tim Hardaway, Cardinal Bernard Henry Law, Ed Koch, the nun who was Clarence Thomas's first grade teacher and, on any day other than Tuesdays, Morrie. Given the talent available to him, imagine my surprise when, last week, my cellphone rang and I was summoned to the White House for a late night talk! Who knew W was into theater?

It was great. I felt like Jimmy Cagney in *Yankee Doodle Dandy*. There I was, in the Oval Office, just me and the President and the Secret Service and a big bowl of pretzels. Maybe it was the pretzels that made me nervous, since W has had his troubles swallowing those, or maybe it was not knowing what sort of difficult, searching questions he was going to ask me. I'm only a playwright, after all.

But I needn't have worried. We talked about Christine Ebersoll and Isherwood's review of *Xanadu*. We argued about whether John Doyle's approach worked better for *Sweeney Todd* or for *Company*, and how gay is Bobby supposed to be, and how much we both love Raul. Then W asked the question he'd invited me to answer, the question that had clearly been gnawing at him. Why, he wanted to know, and it's bothered him for as long as he can remember, has the Broadway musical always pushed a liberal agenda, what is it about musical theater stars that make them such rarities in right wing and Republican circles, so much more likely to come out to do a benefit

in support of the NYCLU than a benefit for the NRA or Swift Boat Veterans for the Truth? Why aren't there any Republican musicals?

I explained to the President that theater, like all art, is made by people, practiced by people who are led places by their joy rather than by their fear, and this is perhaps some-

Save the Date: Broadway will stand up again this year on July 21. Watch www.nyclu.org for details.

thing theater lovers, art lovers and democracy lovers share. Joy. And not the grim tight illusion of selfish safety that lovers of repression, lovers of out-of-control executive branches, lovers of torture and arbitrary arrests and the crushing of dissent, lovers of inequality, injustice and the silencing of free expression mistake for joy, but real joy, recognizable actual human exuberance, actual joy which requires actual human freedom and actual human courage — actual freedom and courage, as opposed to out-of-control psychotic-anarchic belligerence oppression and bullying pretending to be freedom and courage — but actual freedom and courage to follow, to find.

Joy is an essential ingredient of art, and of democracy, it's the vitality that, as Sondheim has it, drives us to the difficult tasks, the hard work of putting it all together, step by step, law by law, civil liberty by civil liberty. In our resistance to repression, in our stubborn, insistent support of secular pluralist constitutional democracy, in our support of the essential guardians of our democracy, like the indispensable NYCLU, in this ongoing, unending and even often very very tough work, we express our joy. Joy isn't cheap or selfish or blind to the future, joy is civic and free, and that's why we're here, that's why Broadway Stands Up for the NYCLU.

So that's what I told the President, and then W and I sang "Putting It Together." Well I sang the words, he just sort of went "huh-huh-huh." He doesn't know the words, he says Sunday In the Park went way over his head. 🗣️

Books to Bars, the School to Prison Pipeline

Youth Camera Action Empowers New York City Students to Share Their Experiences with Police in Schools

Devon Clough faces the camera, unsmiling, and says something startling about his high school.

“The school I go to, we have a precinct on the first floor – a precinct, right there on the first floor,” he says. “That makes me feel more like a criminal than a student.”

Clough, a 16-year-old student at Grand Street Campus High School in Brooklyn, appears in “Schoolhouse to Jailhouse,” a five-minute film in which youth share their perspective about the massive police presence in New York City’s schools. It is part of the Youth Camera Action project to get young people involved in the campaign to end the over-policing of New York City’s schools.

Over the summer, the New York Civil Liberties Union teamed with youth from three community organizations – Future of Tomorrow, Make the Road New York and Youth on the Move – to produce three short documentaries on student experiences with the over-policing of New York City schools and the School to Prison Pipeline — a set of policies that drives youth from classrooms to jails.

The films are “Schoolhouse to Jailhouse” by Make the Road New York, “School: Where Safety is Nothing But A?” by Future of Tomorrow, and “Our Schools: Safe or Not?” by Youth on the Move.

Youth developed the content and shot the footage for each film. They were assisted by Chloe Dugger, an NYCLU field organizer, and Rebecca Haimowitz, a professional filmmaker who volunteered to help with the documentaries.

“The students did excellent work,” Dugger said. “They poured hours of their summers into producing these films, which will be valuable tools to educate people about the School to Prison Pipeline.”

The films feature more than a dozen youth discussing how the massive police presence in city schools affects their lives. They address the presence of metal detectors inside schools, the over-reliance on suspensions as a form of discipline, the often aggressive behavior of school safety agents and other ways that schools

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Photo by Youth on the Move

A film still from Youth of the Move’s video about the School to Prison Pipeline. Over the summer, the NYCLU partnered with youth from three student organizations to produce documentaries about the over-policing of schools.

Proposed Student Safety Act Seeks Accountability & Transparency Over Police Behavior in Our Schools

The New York Civil Liberties Union’s campaign against the excessive police presence in New York City’s schools has caught the attention of the City Council, which held a daylong hearing on school safety in October.

With the council engaged, the NYCLU and its partners in the Student Safety Coalition are poised to introduce the Student Safety Act – legislation that would provide transparency and accountability to NYPD activity in the city’s schools.

Council members expressed concerns at the Oct. 10 hearing that aggressive police practices have harmed the quality of education in the city’s schools.

Robert Jackson, chairman of the education committee, said he fears school security policies are punitive and “criminalize too many of our youth.”

“I’m concerned that this aggressive approach causes tension and conflict in school,” he said in his opening remarks. “We need better balance.”

The day before the hearing, the principal of East Side Community High School in Manhattan was arrested after intervening in the arrest of a student. The

principal was trying to prevent school safety agents, NYPD personnel who patrol the schools, from escorting the handcuffed student out the building’s front door.

Donna Lieberman, the executive director of the NYCLU, said the incident demonstrated the urgent need for oversight of police practices in the schools.

“Whenever a principal is arrested for trying to protect a student from police personnel, it raises serious questions about whether the presence of school security agents enhances school safety or puts our children at risk,” Lieberman said.

Udi Ofer, the NYCLU’s legislative counsel and field director, said the coalition is in discussions with council members about sponsoring the Student Safety Act.

“The act will make police personnel accountable for their actions, which is important to the safety and well-being of students,” Ofer said. “The result will be safer schools and increased public trust in the NYPD and Department of Education.”

Under the act, the jurisdiction of the Civilian

Continued on page 7

We Want You(th) Report Reveals Aggressive Recruitment Techniques in Schools

Survey Looks Up Close at Military Recruitment

Romy Chowdury started being approached by military recruiters during his junior year at Thomas A. Edison High School in Queens. The military recruiters became a constant presence inside his school, always in pairs, engaging students in the hallways and the guidance counselor’s office.

“At one point it got pretty intense,” said Chowdury, who graduated in June. “I’d see the recruiters twice or even three times a week on the first floor walking around and talking with students.”

A Marine recruiter, in full-dress uniform, once aggressively confronted him outside the school about enlisting.

“He was so persistent,” Chowdury said. “He wouldn’t leave me alone.”

Chowdury’s experience is not unique among New York City high school students, according to a report released in September by the New York Civil Liberties Union and Manhattan Borough President Scott Stringer.

The report, *We Want You(th)!*, was based on a survey of nearly 1,000 students in 45 public high schools military recruitment activities were thought to be most prevalent. It concludes that the Department of Education is not properly regulating military recruiting activities in the schools or safeguarding students’ privacy rights.

The federal No Child Left Behind Act of 2001 grants military recruiters wide access to public high schools and to students’ personal information, but the law also requires schools to allow students and parents to withhold personal information from the military. According to the report, many schools are not meeting this requirement. About 40 percent of students surveyed at the beginning of the 2006-2007 academic said they did not receive an opt-out form to withhold their personal information from the military. An additional 33 percent



Photo by Molly Galvin

A collection of representatives from the NYCLU, the Manhattan Borough President’s Office, the City Council and a variety of student and educator organizations gathered to bring public attention to the issue of military recruitment in schools.

of students said they were unsure if they had received an opt-out form.

The report, written by NYCLU Field Organizer Ari Rosmarin and Communications Assistant Jamarah Harris in collaboration with Stringer’s office, suggests military recruiters often roam freely in the schools. About 21 percent of respondents at selected schools reported the use of class time by military recruiters, which is a violation of current DOE guidelines. Nearly half of respondents at selected schools reported that they did not know to whom they should report military recruiter misconduct.

“The DOE has a responsibility to protect the

privacy of our children, and it has abdicated that responsibility,” said Donna Lieberman, NYCLU executive director. “The time is long past due for the DOE to ensure that all students know and can exercise their rights to opt-out of military databases, to ensure that not a minute of instruction time be spent with military recruiters, and to ensure that military recruiters are not given free run of schools.”

The NYCLU calls on the DOE to establish clear policies governing military recruitment. Among its recommendations, the NYCLU urges the DOE to dis-

The federal No Child Left Behind Act of 2001 grants military recruiters wide access to public high schools and to students’ personal information, but the law also requires schools to allow students and parents to withhold personal information from the military. Many schools are not meeting this requirement.

tribute multi-lingual opt-out forms at the start of every school year, require military recruiters to sign-in and sign-out when visiting schools, enforce strict limits on the frequency of recruiter visits and recruitment activity, and institute a grievance procedure to report aggressive recruiting tactics.

But most important, Rosmarin said, is that “Congress must repeal the military recruitment requirement of No Child Left Behind. Military recruitment has nothing to do with education.”

Racial Justice in Black & White

NYCLU Analysis of Stop-and-Frisk in the pages of *The New York Times*

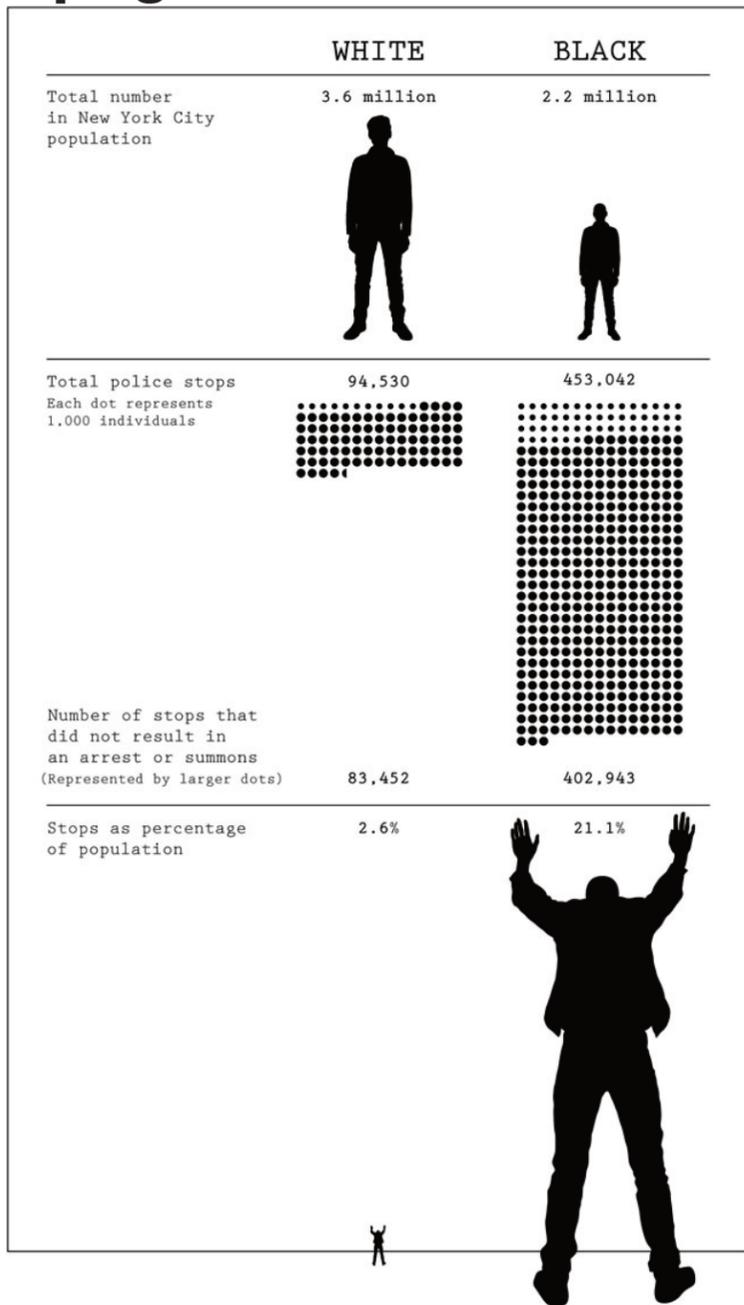


Illustration by Andy Pressman, reprinted with permission of *The New York Times*

On November 9, the NYPD quietly released its latest figures about the number and race of New Yorkers whom police officers stopped and frisked, giving the public access to data from January 1, 2006, to September 30, 2007. An analysis of these figures by NYCLU Executive Director Donna Lieberman and Associate Legal Director Christopher Dunn shows that racial profiling continues in the city, and that blacks are bearing the overwhelming brunt of police stops.

Mission Failure: Civilian Review of Policing

Report Illustrates Lack of NYPD Accountability

In New York City, a police officer can be found guilty of brutally beating a handcuffed man and only lose 10 vacation days as punishment.

Lenient sanctions for serious misconduct are among many striking revelations in *Mission Failure: Civilian Review of Policing in New York City 1994-2006*, a report the New York Civil Liberties Union released in September.

The 63-page report chronicles the systemic failure of the Civilian Complaint Review Board, a civilian agency established in 1993 to provide oversight of the NYPD.

“Our analysis concludes that civilian oversight system has failed by every measure,” said Robert Perry, the NYCLU’s chief legislative counsel and author of the report. “As a consequence, there is little accountability for acts of police misconduct, for inadequate training, for flawed and dangerous police practices.”

The report identifies fundamental reasons for the CCRB’s failure: lack of commitment to the principle of civilian review, obstructionism by the police department, little support from public officials and inadequate human and financial resources.

The failure of civilian oversight endangers people and fosters distrust between the police and the community, Perry said.

“Patterns of misconduct are missed or ignored; dangerous practices are perpetuated without comment or review,” he said. “As a consequence there is a failure to adopt systemic reforms.”

Citing data published by the CCRB, the report finds that even as complaints of police misconduct have increased sharply over the past five years, the CCRB has been closing more than half of all complaints without an investigation. And of those complaints the CCRB has substantiated (about 5 percent – well below national averages), the police department has been rejecting the CCRB’s findings and recommendations with great frequency. When discipline is imposed, it is often strikingly lenient in light of the severity of the misconduct documented by the CCRB.

The report included several examples of lenient punishments imposed against police officers for actions that would merit incarceration if committed by a civilian. In a 2003 incident highlighted in the report, the CCRB found that an NYPD sergeant had used excessive force against during a drug arrest in which a man accused of buying a small amount of cocaine was choked, tackled, handcuffed and repeatedly kicked and punched in the torso. The man suffered fractured ribs and a ruptured spleen, which was surgically removed a week after the beating following a 911 call.

The Department accepted the CCRB’s finding and filed charges against the sergeant and an assistant deputy commissioner of trials conducted a hearing about the incident. In August 2005, the sergeant was found guilty of using excessive force and stripped of 10 vacation days – the extent of his punishment.

The report makes several recommendations for strengthening civilian oversight, including allocating more human and financial resources, developing an outreach and public education program that involves communities in improving police practices and police-community relations, and transferring authority to prosecute substantiated misconduct complaints to the CCRB.

It also recommends establishing an Office of the Inspector General for Law Enforcement Integrity, which would conduct audits of the civilian oversight agency, mediate conflict between the NYPD and oversight entities and advocate for reform of policing policies and practices.

Major newspapers, including *The New York Times*, *Newsday* and the *Daily News*, featured articles about the report. It also was widely covered by local television and radio outlets and attracted the attention of the city’s elected leaders. NYCLU representatives have discussed the report with the CCRB leadership and City Council Speaker Christine Quinn’s senior staff.

Perry said both meetings were productive and Quinn’s staff reacted favorably to several of the reports recommendations. He also worked with NYCLU Field Organizer Chloe Dugger on briefing for the entire City Council on the issue, which occurred in December.

NYCLU Wins One Over Bush Administration’s Patriot Act

From page 1

statute generally provided that the government could not obtain stored electronic communications without the consumer’s permission unless the government had a subpoena, warrant or court order. The NSL provision was an exception to this general rule. It allowed the FBI to compel the production of documents relevant to foreign counter-intelligence information without seeking judicial approval in circumstances where it could certify that it had “specific and articulate facts giving reason to believe” that the documents pertain to “a foreign power or an agent of a foreign power.” Over the years, Congress reduced the conditions that needed to be satisfied before the FBI could issue an NSL. And in the USA Patriot Act, adopted in September 2001, Congress eliminated the requirement that NSLs be limited to investigations of a “foreign power” and substituted a provision allowing the use of NSLs for any “investigations of terrorism or clandestine intelligence gathering.”

How did the NYCLU get involved in this case?

An NSL issued, under the authority of the USA Patriot Act, was brought to the attention of the NYCLU in 2004. The NSL contained a blanket prohibition directing the recipient of the letter that he could not publicly disclose that he had received the FBI’s demand for documents. The blanket insistence on non-disclosure contained no exception allowing the recipient to consult with a lawyer to determine whether the letter conformed to Fourth Amendment standards limiting the scope of administrative subpoenas or to seek judicial review of the scope of the NSL.

What were the primary legal arguments against the NSL provision?

Accordingly, the ACLU and the NYCLU filed suit on behalf of the recipient of the NSL. We claimed

that the NSL and the statute authorizing the issuance of it were unconstitutional in two important respects. First, we argued that by failing to inform recipients of the NSL that they were permitted to consult with counsel and by making it appear that they could not do so, the NSL provision effectively denied recipients the ability to seek judicial intervention to review the scope of any document demand. Without potential judicial review, the NSL provision denied recipients their Fourth Amendment right to remain free from unreasonable searches and seizures. Second, the permanent gag imposed by the NSL violated the recipient’s First Amendment rights to discuss their interaction with FBI agents regarding the NSLs.

Judge Marrero agreed with both of our arguments and found the NSL provision unconstitutional.

How did Congress amend the NSL provision following Judge Marrero’s original ruling?

Congress amended the statute to make it clear that recipients of NSLs could consult with counsel to assist in responding to the document demand. However, the amendment seriously limited the scope of judicial review of the NSLs as applied to the non-disclosure requirement. Under the amendment, if the FBI certifies that disclosure “may result” in a danger to national security or to a terrorism investigation then a court reviewing the propriety and scope of the NSL must accept the FBI’s “certification” as irrefutable and must continue indefinitely the disclosure prohibition. We argued that this Congressional enactment impermissibly narrowed judicial authority in violation of the separation-of-powers principle and the First Amendment. Judge Marrero agreed.

What happens next?

The government has again appealed the decision and that appeal is pending in the Second Circuit.

Freedom of Expression Success in New York City

NYCLU, Artists Win Battle Over Film Rules

A tourist spends a half-hour snapping pictures of his family by the Rockefeller Center Christmas tree. A police officer approaches and demands to see a permit. The officer issues the shocked tourist a summons.

This scenario was possible under regulations the Mayor's Office of Film, Theater and Broadcast proposed in May that would have required city-issued permits and \$1 million of insurance for a wide range of casual photography and filmmaking.

The New York Civil Liberties Union objected to the proposed regulations, rallying strong opposition to them. Responding to the public outcry, the MOFTB released a revised proposal in October that would allow virtually all photography and filmmaking without a permit or insurance.

"This is a victory for the First Amendment," said Donna Lieberman, NYCLU executive director. "The NYCLU helped spearhead a grassroots effort that was driven by a passionate and creative Internet campaign. Happily, city officials responded to the outcry."

The MOFTB had quietly published its originally proposed regulations for public comment on the Friday before Memorial Day Weekend. The NYCLU filed comments in June strongly objecting to two parts of the proposal: one that would have required permits and insurance for any group of two or more people using a handheld camera in one location for more than 30 minutes, and another that would have required a permit and insurance for small groups to use a tripod for more than 10 minutes.

The NYCLU's objections grabbed the attention of independent filmmakers and fine-art photographers throughout the city, who demanded revisions to the proposed regulations. Olde English, a comedy troupe based in New York City, produced "Free NYC Rap," a music video lampooning the proposed rules through satiric rap lyrics.

"Proposin' new rules to try to get rid of me/A million in insurance just to cover liabilities!/From Little Italy all the way to Harlem/Bloomberg's jealous 'cause our movies won't star him," the comics rapped in the video, which showed how the proposed rules would re-

"This is a victory for the First Amendment. The NYCLU helped spearhead a grassroots effort that was driven by a passionate and creative Internet campaign. Happily, city officials responded to the outcry."

strict independent filmmaking and directed viewers to file comments with the city discouraging adoption of the regulations.

The NYCLU created a page on its web site, www.nyclu.org, featuring a link to the troupe's film. The web site also included information about the proposed rules and how to file comments on them; a link to a petition launched by a coalition of filmmakers and photographers; and series of interviews with people whose work would be affected by the rules.

The city initially defended the proposed rules, but as opposition mounted, it reconsidered its position. In August, at the close of the public comment period, the city agreed to revise the proposal. Revised proposed regulations were published in October. They do not require permits or insurance of anyone using handheld cameras or cameras with tripods unless they block traffic or leave less than eight feet of the sidewalk open.

Christopher Dunn, associate legal director of the NYCLU, worked with MOFTB to revise the proposal.

"Given the prominent role that New York City plays in the world of photography and film, the city's recognition that virtually all photography and filmmaking should be free of permit and insurance requirements should set a national standard," Dunn said.

The city had no written rules governing the issuance of photography and film permits last year when Indian filmmaker Rakesh Sharma was unlawfully arrested for filming on the sidewalk in Midtown. Sharma and the NYCLU challenged his arrest in court, and the City agreed to adopt written rules and to narrow its permit scheme.

Videos as Youth Activism

From page 5

push students toward the criminal justice system.

The NYCLU and the three community organizations have hosted screenings of the documentaries in various neighborhoods to facilitate discussion of the School to Prison Pipeline.

"The screenings have drawn good crowds," Dugger said. "They've generated a lot of good discussion."

Free DVDs of the films are available for teachers to use in their classes. Youth groups and other community organizations also are encouraged to host their own screenings. The NYCLU created a School to Prison Pipeline toolkit to accompany the DVDs. The toolkit provides extensive information about the massive police presence in the city's schools. It also contains biographies of the student filmmakers, discussion activities to accompany screenings, and suggests resources for further study of the issues associated with the policing of schools.



Watch the Videos: A section of the NYCLU's web site is devoted to Youth Camera Action. Visit www.nyclu.org/yca.

Student Safety Act to Introduce Clarity Over Police in NYC Schools

From page 5

Complaint Review Board would be expanded to include complaints of misconduct against school security agents. More than 5,000 school safety agents are assigned to the city schools, but there is no formal mechanism for reporting abuse.

According to a letter from Police Commissioner Raymond Kelly to Councilman Jackson, the NYPD has received 2,670 complaints against school security agents since 2002. Of those complaints, 722 were substantiated, yielding a substantiation rate of 27 percent.

"Five hundred complaints a year when there have been 3,000-5,000 school safety agents," Lieberman said. "That's a lot of complaints... And we know that people don't know how to file complaints and they're intimidated from filing complaints."

The act also would require quarterly reporting by the DOE and NYPD to the City Council on school safety issues.

"The reporting requirement will help keep the public informed about the interactions between police personnel and students and the impact of police practices on school safety," Ofer said.

Lieberman said the massive police presence in the schools undermines educators, and makes children feel like suspects and schools seem like jails. Police personnel intervene in day-to-day disciplinary matters that would never merit police attention outside of a school. As a result, students are getting arrested for walking the hallway without a pass or writing on their desks.

"Kids have a right to go to school in safe learning environments conducive to education, but the NYPD is making schools hostile and dysfunctional," she said. "This burden weighs most heavily on the city's most vulnerable children, who are disproportionately black and Latino."

At the hearing, about a dozen students described their experiences coping with inadequately trained, overly aggressive NYPD personnel in their schools. Their testimony underscored the need for reform.

Jonathan Clark, the president of the honor society at Aviation High School, told council members of the bedlam that ensued when the NYPD's roving metal detector program established a cordon around his school last year.

Clark, whose story is documented in the NYCLU's recent Criminalizing the Classroom report, had his bag searched by police officers, who tried to confiscate his art supplies.

"My 6-inch ruler was determined to be a 'hazard to society,'" Clark said. "One girl, it was her birthday. They confiscated her cupcakes because we weren't allowed to bring food into school."

Your Papers, Please: What the Real ID Act Means for American Values

From page 3

American values.

Congress passed the Real ID Act in May 2005 when lawmakers slipped the legislation into a "must pass" Iraq War/Tsunami Relief appropriations bill. Congress did not hold a single hearing on the Act.

The Real ID Act attempts to federalize state driver's licenses by imposing a broad array of regulations on how they are issued and verified—turning them into America's first national identity cards. Congress has left it up to each state to implement the Real ID Act.

The Real ID Act will be a REAL national identity card.

The Real ID Act will violate New Yorkers' privacy rights as it will create, for the first time in the nation's history, a national ID card. National IDs facilitate government tracking of citizens' movements through a network of identity papers, databases, identity checks, and access and control points. New Yorkers must reserve the right to come and go when and where they please without the fear that their government is watching over their every move. A massive web of identity databases and security checkpoints shared between the private and public sectors is a powder keg for abuse.

The Real ID Act is a REAL dream for identity thieves.

The creation of a single interlinked national database as well as the requirement that each DMV store copies of every birth certificate and personal document presented will create a one-stop shop for identity thieves. The risk of identity theft would be higher under the Real ID database scheme because there will be more access points around the country for thieves to exploit. The requirement for all Real IDs to contain machine-readable barcodes will also make it easy for the private sector to

snap up the data contained in Real ID.

The Real ID Act is a REAL fiscal nightmare.

The Real ID Act is an unfunded mandate on New York State. The federal government has left states with the burden of shouldering most of the implementation costs

"The Real ID Act is rotten to its core: It will create a national database on hundreds of millions of Americans, and can be used to track lawful New Yorkers' everyday activities."

of the Real ID Act, which the Department of Homeland Security estimates will exceed \$23 billion. DHS Secretary Chertoff has stated that the cost of implementing the Real ID Act will be borne by state residents through higher driver's license fees. The federal government has also stated that it expects that states will use 20 percent of already scarce homeland security funding to pay for Real ID Act implementation.

The Real ID Act will be a REAL bureaucratic nightmare for citizens.

For everyday New Yorkers, the Real ID Act will mean higher fees, greater inconveniences and logistical nightmares. All citizens who will want to use a Real ID driver's license will have to go in person to the DMV to prove his or her identity and citizenship. Because of the new demands on DMV staff, New Yorkers will confront much slower service, longer lines, vastly increased number of technical glitches, and the likely need for repeat visits to the DMV. Moreover, thousands of unlucky citizens will undoubtedly find themselves caught in a bureaucratic mess as they may not have the proper documentation needed to obtain a Real ID.

The 2007 Legislative Session: A Civil Liberties Overview

Legislative Director Robert Perry on the NYCLU's View

It is not surprising that, after 12 years with a Republican in the governor's office, the election of Eliot Spitzer would excite great expectations.

For those who hoped to see in the governor a champion of civil liberties, however, the blessings of political regime change in Albany have been decidedly mixed.

Measured by this standard, there were two Governor Spitzers. There was the governor who introduced a program bill that recognized the marriage of same-sex couples. This governor also advanced a bill (of which the NYCLU was principal drafter) that would provide clear, affirmative protections of reproductive choice and privacy in state law – legislation compelled by the erosion of those protections in recent Supreme Court jurisprudence.

But one of the first bills signed by the “other” Governor Spitzer authorized the indefinite incarceration of a person after a sentence had been served for a sex offense. This governor also put his signature to a bill that compels an HIV test of a person accused of a sex crime, even though such a test would provide, at best, ambiguous medical information within the time frame prescribed in the law.

Then, in late September, the governor announced that undocumented immigrants would be issued a state driver's license, pursuant to rigorous documentation requirements. This stunning political moment had a long, tortuous half-life, as the governor amended and, finally, withdrew the proposal within two months of its introduction.

His re-calculated position was a concession to the poisonous politics of immigration policy. But the outcome was a worst-case scenario: no licenses for undocumented immigrants and a formal buy into the federal Real ID Act – which is tantamount to endorsing a national ID card for all U.S. residents. And so went this tale of the two Governor Spitzers.

Following is a summary of some of the major civil liberties issues addressed by the legislature in 2007.

Marriage Equality

In a dramatic show of principle and political force, more than 1,100 folks brought the campaign for same-sex marriage to Albany on May 1, 2007 – Equality and Justice Day. The Empire State Pride Agenda organized this lobbying effort. It was the culmination of a statewide campaign to secure further statutory protections of LGBT rights.

To this end the NYCLU entered into a formal collaboration with ESPA, which subsidized the hiring of three organizers who worked out of the NYCLU's chapter offices in western New York, lower Hudson Valley and Long Island. The organizers participated in public forums, trainings, educational events and key lobby visits throughout the state. This organizing effort also mobilized support for the Dignity for All Students Act and for a bill that would amend the state's civil rights law to include a prohibition of discrimination based on a person's gender identity.

Governor Spitzer distinguished himself as the first governor in the U.S. to propose a law recognizing same-sex marriages. And Assembly Member Daniel O'Donnell, primary sponsor of the Assembly bill, delivered a passionate, eloquent, humorous (“I want a license that all of you have . . . that some of you have had two

or three times”) performance in the floor debate. The Assembly approved the bill by a vote of 85 to 61.

But not before the final speaker, upstate Republican Teresa Saywar related her family's and her son's struggle in coming to terms with his identity as a gay man. “My God loves my son and as sure as I'm standing here tonight, this issue is certainly not one for me, or should be for any of us here, anything other than a civil rights issue.”

Commitment of Sex Offenders

The NYCLU, along with victims' rights advocates, mental-health experts and public defenders, urged the governor's staff to reconsider the administration's support for legislation that would permit the state to incarcerate an individual following a sentence served for a sex offense.

Nevertheless, the governor brokered a deal. The new law reflects the political deal-making that led to its adoption. The authority to utilize a civil commitment petition is overly broad (arson, robbery and assault could trigger a civil commitment proceeding if sexual motivation could be imputed to the offender); it erroneously conflates “mental abnormality” with criminality; and it will require an enormous allocation of resources to confine and treat a small fraction of the sex-offender population, diverting scarce resources from sex-offender management programs.

Good public policy reflects sound constitutional principles. This precept is reflected in a recent federal court ruling that struck down on constitutional grounds the state's new civil-commitment law.

Expansion of the state's DNA databank

DNA is considered the gold standard of forensic science. And, as a consequence, both the Assembly and the governor (through a senate sponsor) advanced bills that would require every person convicted of a crime – even low-level misdemeanors – to submit a DNA sample for inclusion in the state's databank.

The Assembly bill included provisions to ensure the collection and preservation of crime-scene evidence and to provide persons charged and convicted of crimes access to DNA evidence for purposes of establishing their innocence. These provisions, absent from the Senate bill, led to an impasse.

But absent from negotiations was any discussion of potential problems with a massive expansion of the DNA databank. (One scholar attributes this lack of critical thinking to “the CSI effect.”) DNA is no magic bullet. Lab technicians are not infallible; they are not immune to negligence, bias or venality.

In public testimony before the Assembly codes and correction committees the NYCLU documented systemic error and fraud in crime labs throughout the country – including mislabeling and cross-contamination of evidence, flawed analysis of computer-generated DNA profiles, and intentional misrepresentation by lab technicians and prosecutors of ambiguous lab results. These problems are exacerbated by a mandate to collect and



Photo by the Empire State Pride Agenda

Equality and Justice Day 2007: NYCLU staffers and members lobbied and rallied in Albany for LGBT rights.

analyze DNA from many tens of thousands of low-level, non-violent offenders. This has led to massive backlogs – delaying the identification of violent felons and creating inefficiency in the law-enforcement system.

The NYCLU's testimony called for reconstituting of the state's forensic commission, providing it the independence, authority and resources required to provide rigorous oversight of the state's DNA databank.

Civil Liberties Watch: 2008

Rockefeller Drug Laws. In March of 2007, Governor Spitzer appointed a Commission on Sentencing, charged with ensuring “appropriate and just criminal sanctions.” But the Commission's preliminary report, published in October, was all but silent on the state's notoriously unjust drug-sentencing laws – notwithstanding the emergence of a new national paradigm that diverts drug offenders from incarceration by utilizing a robust program of treatment and rehabilitation. The NYCLU will advocate for a comprehensive reform bill in 2008.

LGBT Rights. The historic three-hour Assembly debate on the same-sex marriage bill offered a rare display of conviction and frankness that may have favorably shifted the politics of LGBT issues in Albany. The NYCLU will work with the Empire State Pride Agenda to convert this political dynamic into broader support for LGBT rights and liberties.

DNA Databank. There are compelling legal and public-safety arguments against expanding the state's DNA databank. The bottom line: Before undertaking any further expansion of the state's databank, legislators must ensure there is sufficient regulatory oversight to protect the privacy and due-process rights of individuals whose DNA is in the possession of the state.

Real ID Act. The Real ID Act dictates to the states a federal standard for issuing and verifying licenses. As a practical matter, the Real ID is a national identity card that will leave a digital fingerprint whenever swiped, scanned or read at the thousands of electronic check points people are required to pass through. Seven states have opted out of compliance with the Real ID Act. But Governor Spitzer, editorialized *The New York Times*, may be turning his constituents into “the nation's guinea pigs for the controversial Real ID.” The NYCLU is mobilizing a statewide campaign to exclude New York from the Real ID regulatory scheme. 🗣️



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

In the coming year we will:

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

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

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

NAME _____

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CITY _____ STATE _____ ZIP _____

Please charge \$_____ to my AmEx Visa MasterCard

CARDHOLDER NAME _____

ACCOUNT # _____ EXP DATE _____

SIGNATURE _____

New York Civil Liberties Union, 125 Broad St., 19th Floor, New York NY 10004

Tel: 212.607.3300 Fax: 212.607.3329

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NOTICE REGARDING BOARD NOMINATIONS

The annual meeting of the members of the NYCLU will be at 6 p.m. on Wednesday, June 11, 2008 at 125 Broad St., New York NY for the purpose of electing directors, receiving the annual report and transacting any other appropriate business.

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

The Nominating Committee will nominate its slate of nominees. If you are interested in finding out who the nominees are, please write to Donna Lieberman, Executive Director, 125 Broad St., New York NY 10004.

The governing board of each NYCLU chapter is entitled to nominate one director. Nomination may also be made by petition of at least 25 members.

Nominations must be filed with Executive Director Donna Lieberman by April 12, 2008, 60 days prior to the annual meeting, at 125 Broad St., New York NY 10004.

A proxy ballot, along with biographical information and supporting statements of each of the candidates, will be published in the next issue of the NYCLU News.