



NYCLU
NEW YORK CIVIL LIBERTIES UNION

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October 20, 2008

Mr. Howie Hawkins
Hawkins for Congress
PO Box 562
Syracuse, NY 13205

Dear Mr. Sweetland:

I'd like to thank you in advance for participating in the New York Civil Liberties Union's Congressional Candidates' Civil Liberties Questionnaire.

As you may know, the NYCLU is one of the nation's foremost defenders of civil rights and liberties. We are a not-for-profit, nonpartisan organization with eight offices across New York State, including a regional office in Syracuse.

The NYCLU has grown in recent years to become one of the largest statewide advocacy organizations in New York, with close to 50,000 dues-paying members across the State, with over 1,500 in the 25th District. Our members are some of the most politically active and engaged constituencies in New York.

We have composed this questionnaire with the goal of informing our members and the public of congressional candidates' positions on core civil liberties and civil rights issues.

As a nonpartisan organization, we will not be endorsing any candidate in any race but we expect our questionnaire to contribute to the electoral discourse throughout New York.

Understanding that the primary election is rapidly approaching, we ask that you submit your responses by **Thursday October. 23** via e-mail to arosmarin@nyclu.org or by fax to (212) 607-3318. We intend to distribute the questionnaire responses to our members and post them on our web site before the general election.

If you have any questions, please feel free to contact Ari Rosmarin at (212) 607-3358 or arosmarin@nyclu.org.

Thank you very much,

Donna Lieberman
Executive Director



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Congressional Candidates' Civil Liberties Questionnaire – 2008

The twelve questions below comprise the 2008 NYCLU Congressional Candidates' Civil Liberties Questionnaire. Please respond to each 'yes' or 'no' question by checking the appropriate box. Please respond to each open-ended question in 125 words or less—responses over 125 words will be edited for length. Please submit responses by e-mail to arosmarin@nyclu.org or by fax to (212) 607-3318 by Thursday, October 23rd. Thank you again for your participation.

1. Civil Rights

Since the hard-fought civil rights movement of the 1960s, the right of an individual to challenge discriminatory practices in court has been a hallmark of the U.S. justice system. Yet Supreme Court decisions in recent years have severely eroded Americans' ability to seek a legal remedy if they feel their rights have been violated. The Civil Rights Act of 2008 (H.R. 5129) would restore the ability of victims of discrimination to challenge practices that have an unjustified discriminatory effect based on race, national origin, sex, age or disability if the discriminating agency or employer receives federal funds. Among other provisions, it would also restore legal protections for those facing age or disability discrimination by employers.

Do you support passage of the Civil Rights Act of 2008?

Yes

Please provide explanation (if necessary).

2. Fair Pay

In *Ledbetter v. Goodyear* (2007), the Supreme Court held that workers cannot sue employers for discrimination more than 180 days after the employer's initial decision to discriminate. This ruling undermined the traditional right of employees to challenge discriminatory employment practices whenever they discover it, sometimes months or years after the original discrimination. Under the decision, employers could successfully hide evidence of employment discrimination until after the 180-day period expires, thus barring their employees from pursuing legal recourse for their grievances.

Do you support the Ledbetter Fair Pay Act of 2007 (H.R. 2831), which would reaffirm the traditional American value of equal pay for equal work and would allow workers to challenge employment discrimination whenever it is discovered?

Yes

Please provide explanation (if necessary).

3. Torture

In recent years, the C.I.A. and other intelligence agencies have used what many experts consider to be torture techniques on prisoners at U.S.-controlled facilities around the world. Congress has been unable to override a veto by President Bush to prohibit the C.I.A. from engaging in interrogation techniques that involve torture and which other government agencies are prohibited from using.

Do you support legislation to restrict C.I.A. interrogation methods to those approved in the Army Field Manual, which prohibits torture and abuse — including waterboarding — and authorizes an array of specific interrogation tactics?

Yes

What limits should be placed on interrogation methods of prisoners in U.S. custody?

A prisoner in the custody of the CIA or any other military or intelligence agency should be interrogated and treated in all other respects according to the rules of war under the Geneva Conventions.

4. Government Surveillance and the Foreign Intelligence Surveillance Act

In 2005, Americans learned that President Bush had authorized the National Security Agency to engage in warrantless wiretapping of international phone calls and emails, even when the communications involve an American citizen in the United States. Many of the nation's telecommunications companies assisted the Bush administration in a broader surveillance program. Following the national outcry against these secret programs, President Bush asked Congress to authorize them. In June 2008, Congress passed the FISA Amendments Act, which granted broad new surveillance powers to the federal government and provided sweeping immunity to the telecommunications companies that aided the Bush administration.

Do you support repeal of the FISA Amendments Act of 2008?

Yes

What limits should there be on electronic surveillance by the government inside and outside of the United States?

Only by court order based on probable cause.

5. Habeas Corpus/Guantanamo

The passage of the Military Commissions Act ("MCA") by Congress in 2006 resulted in the elimination of fundamental *habeas corpus* protections for those designated "unlawful enemy combatants" by the president. The MCA also granted retroactive immunity to government officials who authorized or ordered acts of torture or abuse, and allowed for the use of evidence

obtained through torture. Sections of the MCA have already been ruled unconstitutional by the Supreme Court with more challenges pending.

Do you support legislation such as the Restoring the Constitution Act (H.R. 1415) and the Habeas Corpus Restoration Act (H.R. 1416) that would repeal or fix some of the provisions contained in the Military Commissions Act?

Restoring the Constitution Act: **Yes**

Habeas Corpus Restoration Act: **Yes**

Do you believe that *habeas corpus* protections should apply to prisoners held by the United States at Guantanamo Bay?

Yes

6. The Real ID Act

Passed by Congress in 2005 with little debate, the Real ID Act creates America's first-ever national ID card system. Americans across the political spectrum have expressed strong concerns about the Real ID Act's attacks on privacy rights and the financial burden implementation of it places on states to implement the act. Twenty-one states have already passed legislation opposing the Real ID Act.

Do you support the bipartisan Identification Security Enhancement Act (H.R. 1117), which would repeal the national ID card provisions (Title II) contained in the Real ID Act, uphold Americans' privacy and due process rights, and respect federalism principles by restoring states' power to determine to whom to grant state driver's licenses?

Yes

Do you oppose efforts to create a national ID card system in the United States?

I oppose a national ID card system because would not succeed in doing what proponents claim, namely, protecting us from terrorists, who can easily produce fake IDs. However, a national ID card system would create a system of internal passports that would significantly diminish our freedom and privacy as they do in China and did in the former Soviet Union and apartheid South Africa. Ethnic groups such as Arabs, Latinos, Caribbeans, and Asians would likely be subject to discriminatory ID checks to establish their citizenship or legal residency. The database required for a national ID system would inevitably contain erroneous information that could render people unjustifiably in trouble with employers, landlords, insurers, creditors, law enforcement agencies, and others.

7. Comprehensive Sex Education

The federal government provides no support for comprehensive sexual education. Instead, since 1981, the federal government has spent more than \$1 billion on abstinence-only-until-marriage programs for U.S. students. Yet a 2007 study by Congress concluded that such programs were

largely ineffective and several studies have found that the curricula used by these programs are filled with dangerous scientific inaccuracies and biased language.

Do you support passage of the REAL Act (H.R. 1653), which would allocate federal money to comprehensive sexuality education programs that provide age-appropriate information on sexual and reproductive health, family planning, preventing sexually transmitted infections and HIV/AIDS, and abstinence?

Yes

Do you support ending the flow of federal money to wasteful and misleading abstinence-only-until-marriage programs?

Yes

8. The Global Gag Rule

Under the Bush administration's Global Gag Rule, or "Mexico City Policy," NGOs around the world that receive U.S. family planning funds are prohibited from advocating for safe abortion services, providing legal abortion services, or referring clients to abortion providers. This policy fundamentally diminishes women's access to health care and denies advocates in other countries the right to speak freely against laws and policies with which they disagree.

Do you support Congressional action to end the Global Gag Rule?

Yes

Do you support a woman's right to terminate a pregnancy as is guaranteed under *Roe vs. Wade*?

Yes

9. Comprehensive Immigration Reform

Approximately 12 million undocumented immigrants live in the United States. Undocumented immigrants pay local and federal taxes — including Social Security, which they will never receive back — yet have very few paths to obtain lawful status in the United States. Democrats and Republicans alike agree that the federal immigration system is broken, yet Congress regularly fails to address the problem in any meaningful way.

Do you support comprehensive immigration reform legislation that would create a meaningful path to legalization for undocumented immigrants currently living in the United States that would protect basic values of family reunification, transparency and due process in the immigration system?

Yes

Please provide explanation (if necessary).

The Fair Labor Standards Act should be extended to cover all workers, including undocumented workers and workers in agriculture and domestic services.

10 Family Reunification

According to recent Census statistics, there are 35,820 bi-national same-sex couples living in the United States, 16,000 of which are raising children together. However, members of these couples cannot sponsor each other for immigration to the United States, leaving many families literally torn apart by borders. The Uniting American Families Act (“UAFA”) would change this by allowing a U.S. citizen or permanent resident to sponsor her or his same-sex partner for immigration to this country.

Do you support passing the UAFA (H.R. 2221)?

Yes

What actions would you take to protect LGBT families?

Legal recognition of same-sex marriages.

11. Don’t Ask, Don’t Tell

Enacted in 1993 under President Clinton, the “Don’t Ask, Don’t Tell” policy prohibits openly lesbian, gay and bisexual Americans from serving in the United States armed services. Fifteen years later, the military has dismissed more than 12,500 men and women from various combat and non-combat roles. Yet according to the *Washington Post*, 75 percent of Americans believe that lesbian, gay and bisexual Americans should be allowed to serve openly in the military.

Do you support the repeal of the “Don’t Ask, Don’t Tell” policy?

Yes

What actions would you take to protect the rights of LGBT individuals and individuals living with HIV/AIDS?

There is a need for explicit legal protection against discrimination against LGBT people and people with HIV/AIDS across many areas of society, including notably work, education, and health services. I would support legislation to make these anti-discrimination protections explicit and backed up with adequate resources for enforcement.

12. Military Recruitment in Schools

Under Section 9528 of the No Child Left Behind Act of 2001, military recruiters receive unprecedented access to high school students’ personal information and to high school campuses. No Child Left Behind requires that every high school turn over students’ home addresses and phone numbers to military recruiters — without parents’ or students’ consent — or else the state will lose crucial federal education funding.

Do you support the elimination of Section 9528 from the No Child Left Behind Act of 2001?

Yes

What fixes do you propose to protect students' privacy and educational integrity when it comes to military recruitment in high schools?

Military recruiters should only have access to students' home addresses and phone numbers when voluntarily submitted by students to recruiters.