

ACLU-NJ Racial Justice Project Hits the Ground Running

TAKING THE NEXT STEP IN ITS FIGHT FOR racial equality, the ACLU-NJ has launched a statewide racial justice initiative aimed at eliminating bias and removing barriers to equal participation and opportunity for racial minorities.

A major new initiative for the ACLU-NJ, the Racial Justice Program will add three new staff members, including a staff attorney, boosting the organization's size and budget by nearly 25 percent, reflecting how high a priority racial justice is for the organization.

The program will take on discrimination in criminal justice, police practices, voting rights, education, immigrant rights, and prison and jail conditions.

“More than 40 years after the passage of the Civil Rights Act, we’re still fighting racial profiling by police, disparities in the criminal justice system and barriers to voting for people of color.”

— Jeremiah Grace, ACLU-NJ Racial Justice Organizer

“A quick look at the ACLU’s racial justice docket demonstrates that our state has a long way to go in addressing racial discrimination and bias,” says ACLU-NJ Executive Director Deborah Jacobs. “From racial profiling to voting rights violations to an exploding minority prison population, there is a tremendous demand for ACLU advocacy in the racial justice arena.”

Newark High School Adds 4th ‘R’ to Curriculum: Religion

BILAL SHAREEF STUDIED HARD TO OBTAIN academic honors throughout his time as a West Side High School student in Newark, but there’s one exam he didn’t pass: a religious-faith test imposed on students at his school.

Had he passed, Shareef could have attended his own graduation ceremony last year, which school administrators insisted on holding in a Baptist church despite their attorney’s promise not to do so.

Instead, Shareef had to sit out one of the most important days of his life. As a Muslim, he believes that he is barred from entering buildings with religious iconography, such as pictures of God or the cross.

“This case is a living example of why the New Jersey Constitution makes it clear that government should neither favor nor discriminate against religious practice,” says ACLU-NJ Legal Director Ed Barocas, who represents the Shareef family in its lawsuit against the school district.

School administrators should have known better. In 2005, they scheduled high school graduation in New Hope Baptist Church. After hearing from a student who, like Shareef, could not attend based on his Muslim religious beliefs, the ACLU-NJ complained and the attorney for Newark’s public schools assured the organization, in writing, that graduation would not again be held in a religious location.

It was an empty promise.

In 2006, the school once again scheduled graduation in the church. Moreover, then-Principal Fernard Williams announced that students who attended a separate religious

Continued on page 2

To head the program, the ACLU-NJ has hired an experienced racial justice organizer, Jeremiah Grace. Grace’s track record of success includes serving as president and political action chair for the Elizabeth branch of the NAACP and as a member of the Economic Development Corporation for the Metropolitan Baptist Church in Newark. He has also been active with the People’s Organization for Progress, the MLK Commemorative Committee and AmeriCorps.

“Since the earliest days of the national civil rights movement, the ACLU helped lead the fight for racial justice,” says Grace. “However, more than 40 years after the passage of the Civil Rights Act, in New Jersey we’re still fighting racial profiling by police, disparities in the criminal justice system and barriers to voting for people of color.”

In a bit of poetic justice, partial funding for the program came from settlement of a lawsuit in which Manalapan Township was accused of racially discriminatory policing (see article below).

To publicly launch the Racial Justice Program and announce the members of a newly formed statewide coalition that will help inform and carry on its work, the ACLU-NJ is planning a major conference on racial justice for October 20, 2007. Conference



Cartoon by Matt Bors
Matt Bors will launch a bi-weekly comic strip in August for the ACLU Stand Up Web site, which is geared toward youth: www.aclu.org/standup

details will appear in subsequent newsletters and notices to members.

The Racial Justice Program is the latest ACLU-NJ anti-bias initiative. Below are highlights of the organization’s other recent activities in this area:

Discriminatory Policing

- The Township of Manalapan agreed to pay \$275,000 to settle in March 2007 an ACLU-NJ lawsuit alleging discriminatory treatment of three African American youths harassed by the police while their white friends were told by the officers to go home (see article below).
- The ACLU-NJ settled a lawsuit in 2002 on behalf of an African American couple

Continued on page 3

Legal Settlement Bolsters Racial Justice Initiative

MANALAPAN TOWNSHIP IN APRIL PAID \$275,000 to settle a discrimination case filed by three African American teenagers whom police officers harassed and singled out for pat-down searches. The ACLU-NJ has dedicated its legal fees from the settlement to help fund the organization’s Racial Justice Program, a new initiative focusing on racial discrimination, including improper police practices (see article above).

The lawsuit, filed in Superior Court in Monmouth County by the ACLU-NJ, alleged discriminatory treatment and improper police searches.

“We hope that this settlement will send a message to all towns and police departments that discrimination is not only wrong and illegal, but also very costly,” says John O’Connor of Anderson, Kill & Olick, who represented the plaintiffs as volunteer attorney for the ACLU-NJ.

The suit stemmed from an incident on June 21, 2003, when Diamond Yorker, then 16; Randy Reina, then 17; Sean Anderson, then 11; and three white friends were together near Buck’s Head Park in Manalapan.

According to the boys, at around 10 p.m., they were approached by two white police officers in patrol cars. One officer told Yorker to take his hands out of his pockets. Yorker questioned the command, since he was doing nothing wrong, but nevertheless complied.

Without cause or provocation, the officer then pressed Yorker against a car and searched him. When Reina objected, the second officer demanded to know where Reina lived. When Reina said he was from Edison, the officer told Reina he was banished from Manalapan and searched him, too. The officers then ridiculed 11-year-old Sean Anderson, who was visibly shaken by



Volunteer attorneys from Anderson Kill & Olick — Marisa Steel and John O’Connor — stand with Sean Anderson, Randy Reina and Diamond Yorker, who were harassed and searched by Manalapan police.

the incident, calling him names like “little punk.”

During the incident, one of the officers told the three white boys to leave, saying, “You don’t have to see this.” Instead, the boys stayed with their friends, witnessed the incident and later provided statements supporting their friends’ claims.

“The job of the police is to protect and serve, not to harass and discriminate.”

— Diamond Yorker, plaintiff in discrimination case

“The police harassed these kids based on their skin color,” says ACLU-NJ Legal Director Ed Barocas. “Their discriminatory actions were blatant and brazen.”

The mistreatment also extended to the boys’ parents. The parents of the three African American youths said that when they filed complaints with the Manalapan Police

Continued on page 4

ACLU-NJ Board Trustee Fights for Human Rights and Due Process at Gitmo

Baher Azmy is an ACLU-NJ board trustee, civil rights lawyer and professor of law at Seton Hall University Law School in Newark, N.J. He successfully defended Murat Kurnaz, a German resident of Turkish descent who was apprehended while traveling through Pakistan with a peaceful missionary group and sold to the United States for a bounty.



Murat Kurnaz (left) before being captured by U.S. forces. Kurnaz (right, shown after his release) was cleared of terrorism charges after more than four years of captivity at Guantánamo Bay.

How did you become involved in defense of Guantánamo Bay detainee Murat Kurnaz?

Immediately following the U.S. Supreme Court's historic 2004 decision in *Rasul v. Bush* — which ruled that, contrary to the administration's position detainees in Guantánamo could file petitions for habeas corpus to challenge the legality of their detentions — a number of mothers, fathers and wives of detainees contacted U.S. lawyers in an effort to get legal representation for their loved ones.

One such person was Rabiye Kurnaz, Murat's mother. She contacted the Gibbons Del Deo law firm, which successfully argued the *Rasul* case in the Supreme Court. I had worked with Gibbons before and they asked me to represent Murat. We filed one of the original 65 post-*Rasul* petitions in U.S. District Court in D.C. Because Murat had been incommunicado for more than two years, he knew nothing about ongoing legal proceedings on his behalf in the United States. We used an old English common law procedure by technically filing on behalf of Murat's mother as Murat's "Next Friend." I had never before represented someone who didn't

know they had a lawyer. During my first visit with Murat in October 2004, he formally consented to my representation.

How do you respond to people who say that the detainees at Guantánamo are terrorists, so they deserve whatever treatment they get?

I also have little sympathy for terrorists, murderers or other violent criminals, but I thought it elementary that we do not condemn persons forever without first determining their guilt in a court of law. All detainees were sent to Guantánamo for indefinite detention without any meaningful process — beyond a unilateral assertion by the president that they were "enemy combatants." This, despite the incredibly chaotic aftermath of the war in Afghanistan, where civilians and fighters appeared indistinguishable, where the United States has freely admitted offering enormous bounties to warlords and the Pakistani government to turn in anyone to U.S. forces, and where the United States had abandoned the military procedures in place in prior conflicts, such as in Vietnam, to distinguish civilians from combatants.

In fact, a Seton Hall study of the Department of Defense's own data reveals that only 18 percent of the detainees have an association to Al Qaeda or the Taliban.

"This country has nothing to fear from having in place a process that demonstrates our commitment, even in turbulent times, to the rule of law."

— Baher Azmy, Board Trustee

Lawyers for detainees have only asked for two basic things, which are fundamental to any civilized system of law, even during wartime: a summary habeas corpus hearing to provide a detainee the opportunity to demonstrate his innocence; and humane treatment, consistent with our previously unbroken obligations under the Geneva Conventions.

How was your client treated at Guantánamo Bay?

The entire point of Guantánamo is to create an atmosphere of utter isolation, disorientation and despair; to deprive detainees of any connections to the outside world, to undermine



ACLU-NJ Board Trustee and human rights lawyer Baher Azmy speaks at a May 6 Reception for Liberty event in Princeton. T. Kevin Birch, Photography

their self-reliance and to create feelings of complete hopelessness — in effect, to break them. In so doing, the military expected the detainees would become dependent upon their interrogators and, therefore, open up to them. This method assumed that the military had detained people with any meaningful knowledge of terrorism. Thus, Murat was subjected to the range of psychological torture techniques devised for Guantánamo and later exported to Abu Ghraib, such as hooding, isolation for days, stress positions, sleeplessness, food deprivation and sexual humiliation, among other things.

Are there any pending legislative proposals that would improve detainees' access to courts and lawyers?

The most important ongoing legislative effort is to restore habeas corpus, which was stripped by the Military Commissions Act, leaving detainees without any opportunity to meaningfully challenge their detention or present evidence of innocence to an independent court. There are bills percolating in the House and Senate that would restore habeas, and these measures deserve full support. This country has nothing to fear from having in place a process that demonstrates our commitment, even in turbulent times, to the rule of law. ■

Newark Schools

Continued from page 1

baccalaureate ceremony at the Catholic Basilica of the Sacred Heart would receive extra tickets for graduation.

In newspaper articles about the issue, school officials have been quoted as saying that nonreligious spaces are hard to obtain in Newark. However, with just a few phone calls, the ACLU-NJ found numerous secular locations in Newark that could accommodate graduation ceremonies at a reasonable price, including Branch Brook Park, the New Jersey Institute for Technology and Essex County College.

The ACLU-NJ, in its lawsuit filed on behalf of the Shareef family, says the school's actions violated the New Jersey Constitution's prohibitions against favoring certain religious sects over others, compelling people to attend a place of worship contrary to their faith and judgment, and discriminating against students in the public schools because of their religious principles.

"This case is consistent with the ACLU-NJ's track record of supporting the right of individuals to express their religious beliefs and practices free from government interference," says Barocas. "Shareef was forced to choose between honoring his faith or abandoning it because of undue, illegal government pressure."

Says Shareef, "I worked hard throughout high school to reach the point of graduation, and the school denied me the chance to be there with my friends and family for what should have been a happy, once-in-a-lifetime experience."

The case, *Bilal Shareef and Ahmad Shareef v. Newark Public Schools, et al.*, is available online at <http://tinyurl.com/2n99jq> ■



A student and his family are challenging a Newark public high school's decision to hold graduation last year at New Hope Baptist Church.

Civil Liberties Reporter

Editor: Annu Mangat
Contributors: Jay Gartman, Tsihai Hanson, David Harris, Rich Pliskin and Sylvia Stengle
Graphic Designer: Michael Kabbash
Published Winter, Spring, Summer and Fall by the American Civil Liberties Union of New Jersey
P.O. Box 32159, Newark, NJ 07102
(973) 642-2084
www.aclu-nj.org • info@aclu-nj.org
ISSN: 0009-7934

TRIBUTES

In Memory of Werner Freundlich

Richard & Ann Appert
Erika Bloomfield
Shirley & Maxwell Cobert
Roslyn Croatman
Susan & Steven Eisenhauer
Eileen U. Honberg
Martha H. Jewett
Tina & James Klocke
Irene & Joao Lerias
Jimmy & Ieda Phillips
Andrew Sprung

In Memory of Puneet Bhandari

Narendra C. Bhandari

In Memory of Alex Menza

Gerald R. Stockman
Eleanor J. Lewis

In Memory of Deborah Jacoby

Martha Davidson

In Memory of Paul Nadler

Nicki & Ed Kessler

In Memory of Liz Kahn

Nicki & Ed Kessler

Tributes are contributions made to honor or remember special friends, family, colleagues and occasions.

To have your tribute appear in the Civil Liberties Reporter, please contact the ACLU-NJ office at (973) 642-2086 or P.O. Box 32159, Newark, NJ 07102.

It's Time for the N.J. Legislature to Give Public Information Back to the Public

WHEN THE NEW JERSEY Legislature revised the Open Public Records Act (OPRA) five years ago, our lawmakers overlooked a significant flaw that needs to be fixed if the law is to fulfill its promise — the grossly inflated costs that many government agencies charge for copies of public records. Copying charges often topping \$1 per page gouge residents who need public records to do their jobs, to participate in community dialogue, to engage in local political issues and to conduct business.



Deborah Jacobs

Affordable access to public records is a basic expectation in a democracy and an important element in ensuring that government remains transparent and accountable. U.S. Supreme Court Justice Louis D. Brandeis said, "Sunshine is said to be the best disinfectant," and that's as true today as when he wrote it nearly 75 years ago.

The ACLU-NJ actively addresses a broad range of issues concerning open public records and meetings. We help lead the New Jersey Foundation for Open Government (www.njfog.org), a coalition of activists, advocates and journalists who promote transparent government and try to hold government bodies accountable for failing to let the sun shine on their operations. One of NJ FOG's big successes was helping push the Legislature to revise our open records law, which for years was one of the worst in the country.

However, in revising OPRA, the Legislature let stand a fee schedule that directs government agencies to charge a maximum of 75 cents per page for the first 10 pages, 50 cents per page for the next 10 pages and 25 cents per page for all additional pages. As a trip to any commercial copy shop will confirm, these charges bear no relation to the actual costs of copying, which are

far lower than these government-mandated charges.

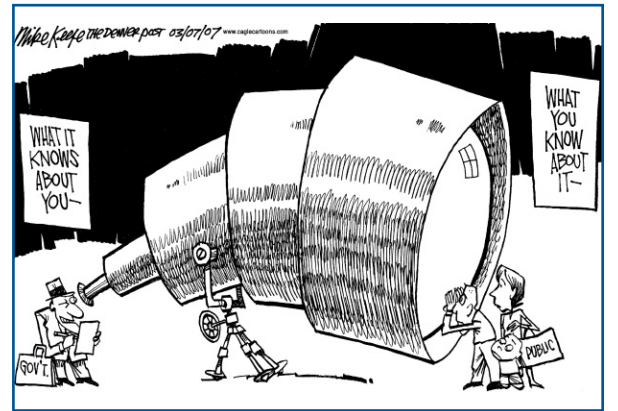
Unfortunately, the copying cost problem only begins with OPRA's unreasonable fee schedule; OPRA also allows local agencies to set higher fees by regulation or ordinance. Some agencies routinely charge \$1 to \$2 per page for simple photocopies. Many local governments have their own ordinances with inflated costs of copying and only a few are based on the agencies' actual costs.

This problem came to the attention of state Assemblymember Joseph Cryan when he witnessed a Union County couple on the verge of having their home repossessed, desperately trying to cobble together the funds necessary to get copies of documents try to save their home, at \$1 per page.

Recognizing the impact of these excessive charges on citizens, Cryan introduced a bill (A2004) that would decrease copying fees for many public documents so that government agencies could not charge more than 10 cents per letter-size page and 15 cents per legal-size page, a price much closer to the actual costs of copying and is what most commercial copy shops charge.

New Jersey courts have also recognized that government agencies should not be filling their coffers at the expense of record seekers. Rulings have resulted in the City of Hoboken and the clerks' offices of Burlington and Camden counties lowering their copying fees to five cents per page. Hamilton Township offered rebates to requestors who had been charged more.

But most record seekers don't have resources to take such disputes to court, and New Jersey has almost 600 towns, which means



Keefe, *The Denver Post*

hundreds of potential legal challenges. That's why we need to change the law.

Cryan's bill represents a fair and desirable solution that would help restore some measure of faith that government will charge the public, including those with limited incomes, what they can readily accept as a fair price for public records rather than the arbitrary monopoly prices now imposed.

It would also be fair to government agencies, which will still be able to more than recover the costs of providing copies to the public under this fee schedule and which can still charge a higher fee if it can document that its actual direct costs of copying would exceed the proposed fee schedule.

A2004 is a straightforward, commonsense measure that would tangibly improve the openness, accessibility and accountability of government in New Jersey. It is a simple step that will provide tremendous relief to countless everyday people in New Jersey. Above all, it recognizes that public information belongs not to government, but to the public. ■

WHAT YOU CAN DO

Ask your elected state representatives to support *Assembly Bill No. 2004/Senate Bill No. 2081* without amendments. We want to see it passed this fall. To find out who your elected officials are and where to reach them, visit the Web site: <http://tinyurl.com/3ar4m8>

Racial Justice

Continued from page 1



Jeremiah Grace, ACLU-NJ Racial Justice Organizer

subjected to excessive force by the Paramus Police Department. After borrowing a screwdriver from Home Depot because their car key had broken off in their car ignition, the couple returned to their car where eight officers surrounded them, put guns to their faces, screamed curses at them, threw them to the ground, handcuffed them, shoved a flashlight in the back of the man's neck and would not let them explain that they owned the car.

Voter Disenfranchisement

- The ACLU-NJ sued the state of New Jersey in 2004 to challenge the denial of probationers' and parolees' right to vote. The organization argued that because of the overrepresentation of minorities in the criminal justice system,

denying people not incarcerated the right to vote violates the New Jersey Constitution's guarantee of equal protection. While the case was ultimately dismissed, the claims have now been referred to the Inter-American Commission on Human Rights, an autonomous arm of the Organization of American States.

- The ACLU-NJ's ongoing "Unlock the Vote" project has been engaged in public education and outreach to help people who are on probation or parole secure their voting rights.

Whites-Only Swim Club

- The ACLU-NJ settled a lawsuit in 2004 against the Le Terrace Swim Club, a privately owned swimming pool in Nutley that barred nonwhites. The owners paid \$1 million to settle the case.

School Segregation

- The ACLU-NJ uncovered discrimination in the Lakewood School District's special education program and successfully advocated in 2005 for a state Department of Education investigation. The investigation found that from 2002 to 2004, only one of 94 preschool special education students of color was sent to an out-of-district placement, compared with more than half of the 123 white preschool special education students sent to more expensive out-of-district placements, one of which only accepted white students.
- The ACLU-NJ filed a friend-of-the-court brief in 2002 in a case concerning the expansion

of the Red Bank Charter School. The ACLU-NJ argued that expanding the charter school would contribute to de facto segregation. Ultimately, the school was allowed to expand, but the case, decided in 2004, was remanded to the state Commissioner of Education to determine how the school's policies and practices needed to change to attract and retain more minority students.

Racial Profiling

- The ACLU-NJ sued the State of New Jersey on behalf of 12 individuals who had been targeted based on skin color while driving on the New Jersey Turnpike. The case was settled in 2003 with plaintiffs sharing \$775,000.
- The ACLU-NJ represented two men removed from a Continental Airlines flight after another passenger told the pilot there were "suspicious-looking brown-skinned men" in first class. After being removed from the plane, the men were put on the next flight out with no additional security measures taken. While this case was dismissed in 2006, it established that pilots who rely on discriminatory bases for removing passengers are not immune to lawsuits.
- The ACLU-NJ continues to fight racial profiling by advocating for passage of bills in the state Legislature that address police practice issues, such as data collection policies, protection for police whistleblowers and improved systems for police accountability. ■



Profile in Liberty:

Avi Tilak

Whenever I tell friends that I am a member of the ACLU, their jaws drop. I am a Republican, which some might think makes me an unlikely supporter. But, from the very beginning,

"I am proud that the ACLU is unafraid to put the individual first and I could no longer imagine not being an advocate in this fight."

my experience with the organization has proven that more than being liberal, the ACLU is libertarian; and freedom is something that everyone values.

One of my first experiences with the concept of civil liberties — and perhaps what solidified free speech as one of the most important issues for me — was shortly after coming to the U.S. from India to attend college in 1972. When the Watergate scandal broke, I was astonished at how freely my classmates spoke out against President Nixon, an action that in 1970s India could easily land you in jail. I realized that individual liberties are respected in this country, but also often taken for granted.

I've been a supporter of the ACLU since the late 1970s, but only became a member in the last three years. As I continued to watch our president abuse his power and trample on our freedom of speech, labeling anyone who opposed his policies as unpatriotic, I felt it was my responsibility to take personal action. I am proud that the ACLU is unafraid to put the individual first and I could no longer imagine not being an advocate in this fight.

I know how valuable my financial support is to the work of the ACLU-NJ, but talking to friends, people I know and people I meet about what the ACLU stands for is equally important. If I can encourage people to think about the principles of equality and freedom, the basic rights they never realized are threatened because they've always had them, they will surely see how necessary the ACLU is.

I'm not a lawyer or in public relations, so I can't litigate or lobby for legislation, but I can always educate others. Everyone can and should. ■

ACLU-NJ Board Member Appointed to State Bench

Lisa James-Beavers is leaving the board for the bench. Governor Jon Corzine nominated James-Beavers, a member of the ACLU-NJ Board of Trustees since 2006, to serve as a judge in the New Jersey Office of Administrative Law.



The Hon. Lisa James-Beavers

The Office of Administrative Law hears disputes over actions of New Jersey's executive branch agencies.

"I have truly enjoyed my time on the board and have felt it a privilege to play a part in moving the agenda of social justice forward in New Jersey," says James-Beavers, who was confirmed by the New Jersey Senate in May.

"We know Lisa as an extremely dedicated and highly skilled professional who has worked tirelessly in her volunteer activities for the bar and the public," says ACLU-NJ Executive Director Deborah Jacobs. "Her judicial appointment is yet another highlight of her impressive career."

Prior to her judicial appointment, James-Beavers worked as the executive director of the School Ethics Commission in the state Department of Education. The commission governs the conduct of school administrators and board members.

At the ACLU-NJ, she was a member of the Budget & Finance Committee and helped guide and advise on the Racial Justice Program.

The ACLU-NJ is always on the lookout for similarly talented board members. If you are interested in learning about serving on the board, e-mail nominations@aclu-nj.org ■

Manalapan Settlement

Continued from page 1

Department, they were treated disrespectfully and endured racially biased remarks. A detective handling the complaint filled out Yorker's race as "Negro," and a sergeant stuffed the paperwork in his back pocket.

"New Jersey needs to address racial discrimination in policing," says ACLU-NJ Executive Director Deborah Jacobs. "Incidents like this are evidence that we need greater oversight at the state and local levels."

"The job of the police is to protect and serve, not to harass and discriminate," said Diamond

Yorker, now 20, a plaintiff in the suit. "I hope that this sends a positive message to others to come forward and stand up for their rights." ■

Strong Leaders Needed

Interested in Serving on the ACLU-NJ

Board of Trustees?

We need strong leaders!

Please contact nominations@aclu-nj.org

for information about nomination to the board.

Need a Civil Liberties Expert? Contact Our Speakers' Bureau

The ACLU-NJ Speakers' Bureau consists of staff, board members, cooperating attorneys and other expert civil liberties advocates who have professional experience and extensive knowledge in the issue areas ACLU-NJ supports and defends. These areas include: free speech; racial justice; religious freedom; open government; national security; police practices; LGBT rights; privacy; voting rights; student and youth rights; and reproductive rights.

Speakers are generally available at no cost though an honorarium from organizations that can provide one is always appreciated.

Visit our online action center to complete our one-step speaker request form: www.aclu-nj.org/takeaction/requestaspeaker

E-mail: speaker@aclu-nj.org or call (973) 642-2086 for more information.

Save the Date: October 20, 2007 Race Still Matters Conference

Be sure to mark Saturday, October 20, 2007 on your calendars when the ACLU-NJ and a host of other organizational leaders at the forefront of advancing racial equality in the Garden State come together to discuss racial justice and develop comprehensive solutions for lasting change.



Photo by Jon Levine, People's Organization for Progress

The Race Still Matters conference will be held at Essex County College in Newark. Details will soon appear on our Web site www.aclu-nj.org and in future newsletters and direct mailings to members. Stay tuned!



JOIN THE DESILVER SOCIETY

Please include the ACLU of New Jersey Foundation in your will or consider making a charitable gift annuity. We can help find a plan that works for you.

For more information, contact the Office of Gift Planning at (877) 867-1025 or legacy@aclu.org or visit www.aclu.org/legacy

Address Service Requested

American Civil Liberties Union
of New Jersey
P.O. Box 32159
Newark, NJ 07102



Non-Profit Org.
U.S. Postage
PAID
NEWARK, NJ
Permit No. 6593