

ACLU-NJ Calls for Justice in Newark Police

ACLU-NJ asks for federal intervention after exposing patterns of abuse in the Newark Police Department that have resulted in injuries and deaths of residents.

The ACLU-NJ and other groups have for years pushed and prodded for reform of the long-troubled Newark Police Department. But as citizens' complaints against the department piled up, the ACLU-NJ felt it had no choice but to ask the Department of Justice to step in.

On Sept. 9, the ACLU-NJ filed a 96-page petition with the U.S. Justice Department, detailing complaints of false arrests, inconsistent discipline, discrimination, shoddy internal affairs practices and acts of brutality against the very citizens police are sworn to serve and protect.

In total, the petition cited 407 serious incidents of misconduct over a 30-month period.

The petition also alleges willful negligence in responding to accusations of misconduct. Out

Out of 261 complaints of serious misconduct, internal affairs sustained only one.

of the 261 complaints of serious misconduct filed in 2008 and 2009, internal affairs sustained only one — an improper search allegation. The petition included seven deaths in custody resulting from either excessive force or medical neglect.

In addition, officers with troubled disciplinary histories were allowed to remain on patrol, including one with 62 career complaints and another with 45.

In its petition, the ACLU-NJ asked the Justice Department to monitor and audit the police department's operations and to mandate reforms that will rebuild the department from the ground up.

"The citizens of Newark have suffered at the hands of a police department with little accountability for decades," said Deborah Jacobs, executive director for the ACLU-NJ. "Our only shot at changing the culture of lawlessness in Newark is the presence of an external monitor."

A swift reaction followed the report's release. Newark residents and officers began contacting the



The headquarters of the Newark Police Department, which the ACLU-NJ has asked the U.S. Department of Justice to investigate after uncovering patterns of serious misconduct.

AMONG THE MOST DISTURBING ALLEGATIONS:

- An officer fractured the jaw and face of a man in police custody.
- Another officer beat a man so severely that he suffered permanent spinal cord injuries and paralysis.
- Officers threatened to throw a juvenile from a bridge unless he confessed to a crime. When he refused, the officers urinated on him and beat him.

ACLU-NJ to report their own troubling encounters with the Newark Police.

Police Director Garry McCarthy, who rejected the call for federal intervention, acknowledged disappointment with the department's incomplete reporting of internal affairs statistics to the Attorney General's office, as required by state law. Upon the Newark City Council's Oct. 6 confirmation of the police director's second term, McCarthy identified the concerns raised in the ACLU-NJ's petition as a chief priority — as he had done before in 2006, at the start of his first term.

The petition to the Department of Justice and details about lawsuits recently settled against Newark Police are available at www.aclu-nj.org [ACLU](http://www.aclu.org)

At Long Last, Legislature Lowers Fees for Records

It took years of ACLU-NJ advocacy, but in September, Gov. Chris Christie signed a new law that will bring transparency to the public's business.

The problem became clear to Assemblyman Joseph Cryan (D-Union) when he learned of a couple who paid a dollar per page for copies of public records they needed to fight off foreclosure.

Residents across the state were facing similar obstacles, with some towns charging as high as \$10 for the first three pages of public records. The ACLU-NJ and other advocates went to court to challenge individual towns' exorbitant copying fees, but it was clear statewide action was needed.



Sen. Loretta Weinberg (D-Bergen), pictured, championed legislation along with Assemblyman Joseph Cryan (D-Union) to lower fees for copies of government records, which Gov. Christie signed into law Sept. 10.

Cryan and Sen. Loretta Weinberg (D-Bergen) championed a bill that would limit the cost of copies to 5 cents per page for letter-size pages and 7 cents for legal-size pages.

Gov. Chris Christie signed it into law Sept. 10.

"It's commendable that New Jersey put an end to exorbitant copy costs," said ACLU-NJ Open Governance Project Attorney Bobby Conner. "Now public records will be available to everyone, not just those who can afford it." [ACLU](http://www.aclu.org)

ACLU-NJ Challenges Lord's Prayer at Point Pleasant Beach Meetings

The ACLU-NJ sued to stop Point Pleasant Beach officials from beginning council meetings with the Lord's Prayer, recited formally in the borough for years in violation of the First Amendment.

Sharon Brenner Cadalzo started attending Point Pleasant Beach Council meetings in 2007 to learn more about the work of local government. To her surprise, Cadalzo discovered the municipal clerk began meetings by reciting the Lord's Prayer, the traditional version of which begins, "Our Father, who art in heaven, hallowed be thy name."

While others stood, Cadalzo deflected strange looks from other attendees, who teased her and called her a "heathen" for sitting during the prayer.

Cadalzo voiced concerns that the prayer violated the Constitution. She knew that the First Amendment's Establishment Clause defends religion against

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Plaintiff Sharon Cadalzo, center, stands beside her attorneys, ACLU-NJ Board President Frank Corrado and ACLU-NJ Deputy Legal Director Jeanne LoCicero, in a case challenging the reading of the Lord's Prayer during public meetings in her town of Point Pleasant Beach.

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The 407 accusations of misconduct that led the ACLU-NJ to seek federal intervention for the Newark Police Department. **PAGE 1**

2010 Candidates for the ACLU-NJ Board of Trustees

The ACLU-NJ Committee on Trustees presents a slate of six candidates to fill six open positions for three-year terms on the organization's Board of Trustees. Because this year's election is uncontested, we are not asking members to submit a ballot. The ACLU-NJ depends on strong, quality leadership and encourages its members to serve on its Board of

Trustees. Interested members may contact the ACLU-NJ at 973-642-2086 or e-mail: nominations@aclu-nj.org

In addition to the official nomination process, any member of the ACLU-NJ can appear on next year's ballot by gathering signatures of 50 ACLU-NJ members on a petition. Those petitions must be submitted by September 30, 2011.



Peggy Brooks
Essex

I am pleased to stand for election to my second term on the board of the ACLU-NJ. I am currently chair of its personnel committee. For almost two decades, I was a civil rights lawyer on prison brutality, employment discrimination and privacy cases. It took our country over 200 years to develop the rights we enjoy today, but officials in Washington continue to tell us that we must surrender those rights so that they can protect us from things they can't tell us about. Often, the ACLU is the only organization willing to fight back. It is critical that the ACLU continue to challenge policies that threaten our liberty. The ACLU-NJ also plays an important role in New Jersey, educating the public on issues, urging the government to do the right thing and going to court when necessary. I hope to bring my years of legal and managerial experience to strengthen the ACLU-NJ.



Ronald K. Chen
Union

I have served on both the ACLU-NJ and National ACLU boards on and off for many years. I have been thrilled to have a front-row seat to the transformation of both ACLU offices, which have benefitted from new leadership for the new millennium and grown tremendously with respect to size and impact. My desire to serve again is driven in large measure by the personal belief that my service as the New Jersey Public Advocate has given me new insights on advancing civil liberties for constituencies whose interests I represented in that role, including children, persons with disabilities, elder citizens, mental health consumers, prisoners and immigrants. I also would return to the board with a heightened sense of the relationship of economic and environmental justice to the ACLU's core mission to promote equality, as well as ideas for greater ACLU engagement in these areas.



Frank Corrado
Cape May

It would be my privilege to continue serving as a member of the ACLU-NJ board. I have served on the board since 2001, and currently serve as its president. I am an attorney in private practice in Wildwood, where I concentrate my practice on civil rights litigation, particularly concerning free speech matters. I have been an ACLU-NJ cooperating counsel since 1989, and in that capacity I have handled dozens of cases on the organization's behalf. My work for the ACLU, both as counsel and as a board member, has consistently been the most rewarding and satisfying part of my practice. I would like nothing better than to keep doing it. Thank you.



Sylvia Stengle
Mercer

I have been an ACLU member since the 1960s and have served on the ACLU-NJ board since 2004. I have been active on the board in community education, strategic planning and board governance. I conducted ACLU-NJ member focus groups, edited the newsletter, the Civil Liberties Reporter, and developed our first stand-alone annual report. My career has concerned founding and running abortion clinics, one in Allentown, Pa., and one in Binghamton, N.Y. I have served on NARAL's national board of directors and for a time served as Executive Director of the National Abortion Federation, the professional association of abortion providers in Washington, D.C. My public health career also includes policy development and research on community resilience and the interplay between drug and alcohol use and violence. I hope to continue to work with my wonderful colleagues in the ACLU-NJ, whom I respect, learn from and enjoy tremendously.



Jeffrey Wild
Bergen

I am the head of the largest litigation team at Lowenstein Sandler PC, a 250-attorney firm with a commitment to pro bono service. I am thrilled to be a candidate for the ACLU-NJ Board of Trustees, which is a natural extension of my personal dedication to civil liberties. Over the last 20 years, I have represented individuals incarcerated at a federal mental hospital; advocated for the rights of children in foster care, through Columbia Law School's Child Advocacy Center; worked on death-penalty appeals and other civil-rights cases at the Paul, Weiss law firm; secured the release of an individual who had been in debtors' prison in New Jersey; helped obtain a landmark settlement in a case involving HIV-positive discrimination in the context of adoptions; and am currently working to protect the rights of the homeless in New Jersey. I would be honored to represent you on the board.



El-Rhonda Williams Alston
Somerset

It would be a privilege to serve another term on the ACLU-NJ board defending the rights of the greater community. My membership on the ACLU-NJ board and in the Association of Black Women Lawyers, the New Jersey Bar Association, Alpha Kappa Alpha Sorority and First Baptist Church of Lincoln Gardens has let me channel my core beliefs to serve others. I aspire to live the words of a favorite hymn: "If I can help someone as I pass along, then my living shall not be in vain."

I have held managerial and administrative positions in the judiciary and executive branches of state government for over 18 years. I'm a licensed attorney admitted to the New Jersey and Pennsylvania bars, with a law degree from Howard University and undergraduate degree from University of Virginia. I am devoted to my husband, Arnold, and our daughter, Briana. [ACLU](#)

Camden Cops Sued For Planting Drugs on an Innocent Man

Nearly 200 convictions were tossed after cops admitted planting drugs on innocent people.

Joel Barnes lost 14 months of his life serving jail time for a crime he didn't commit. Now, with the help of the ACLU-NJ, he's turning the tables on the corrupt Camden cops who put him there.

Camden police officers arrested Barnes in 2008 after planting drugs on him, but the wrongful conviction was one of 185 thrown out this year by the Camden County Prosecutor's Office after officers admitted their crimes in federal court.

The ACLU-NJ and the national ACLU are demanding justice for Barnes, accountability for the cops, and systemic changes to prevent similar crimes from happening in the future.

"Planting evidence on innocent people in order to send them to prison is one of the most serious forms of police misconduct, and police who engage in such behavior must be held accountable," said ACLU-NJ Legal Director Edward Barocas.

Barnes's troubles started in August 2008. He was visiting a friend when officers entered the home without a warrant. They detained Barnes and demanded to know where in the house they would find drugs.

Barnes answered truthfully: he didn't know. One



ACLU-NJ Legal Director Edward Barocas and Plaintiff Joel Barnes, together in Camden, announced a lawsuit against the Camden Police in September after officers admitted to planting evidence on Barnes and nearly 200 other citizens.

of the officers, Antonio Figueroa, produced a bag containing drugs and said, "Tell us where the shit's at and we'll make this disappear." Figueroa then claimed the drugs belonged to Barnes, whom he arrested for possession with intent to distribute, a charge that can result in a 20-year sentence.

Barocas, joined by the ACLU Criminal Law Reform Project, filed Barnes's suit in U.S. District Court in

July. Defendants include the state Attorney General's Office and the Camden County Prosecutor's Office because the state was overseeing the police department at the time.

It's commonplace for police departments around the country to reward officers who make high numbers of arrests on low-level drug charges with incentives such as overtime pay or promotions, explained ACLU

Police officers detained Joel Barnes and demanded to know where in his friend's house they would find drugs. Barnes answered truthfully: he didn't know.

Criminal Law Reform Project Director Jay Rorty.

With two prior convictions – for possession with intent to distribute and for simple drug possession — Barnes feared a jury wouldn't believe his version, so he accepted a plea deal last year.

"The police had all the power, and I had none, even though I didn't do anything wrong," said Barnes, now 28. "It's not right that police officers were the ones breaking the law and abusing the people they're supposed to protect." [ACLU](#)

FROM THE EXECUTIVE DIRECTOR OF THE ACLU-NJ



A Petition for Justice in the Newark Police

BY DEBORAH JACOBS
ACLU-NJ Executive Director

In the aftermath of Newark's 1967 unrest, mounting evidence pointed to a police force that was out of control. Armed with stacks of citizens' complaints, the ACLU-NJ went to court that year demanding a federal takeover of the Newark Police Department, but the plea fell on deaf ears.

Decades later, having seen countless lawsuits and campaigns fall short of reforming the Newark Police, this September the ACLU-NJ petitioned the U.S. Department of Justice to investigate and end entrenched patterns of police abuse.

The petition's 407 allegations, which cover only 30 months, detail how officers deprived citizens of their constitutional rights through excessive force, sexual misconduct, false arrest and planted evidence. The underlying pattern reveals a culture of lawlessness and recurrent conflict between superiors and subordinates.

The ACLU-NJ had high hopes when Newark Mayor Cory Booker and Police Director Garry McCarthy took office in 2006, promising a new era of reform. But even McCarthy's depth of expertise in law

enforcement administration combined with Booker's sincere interest in reform have not been enough.

McCarthy faces colossal challenges. He inherited a culture of cronyism; insufficient human and technological resources; laws and ordinances that impinge on police operations; and union contracts and civil service rules that limit his authority on personnel matters.

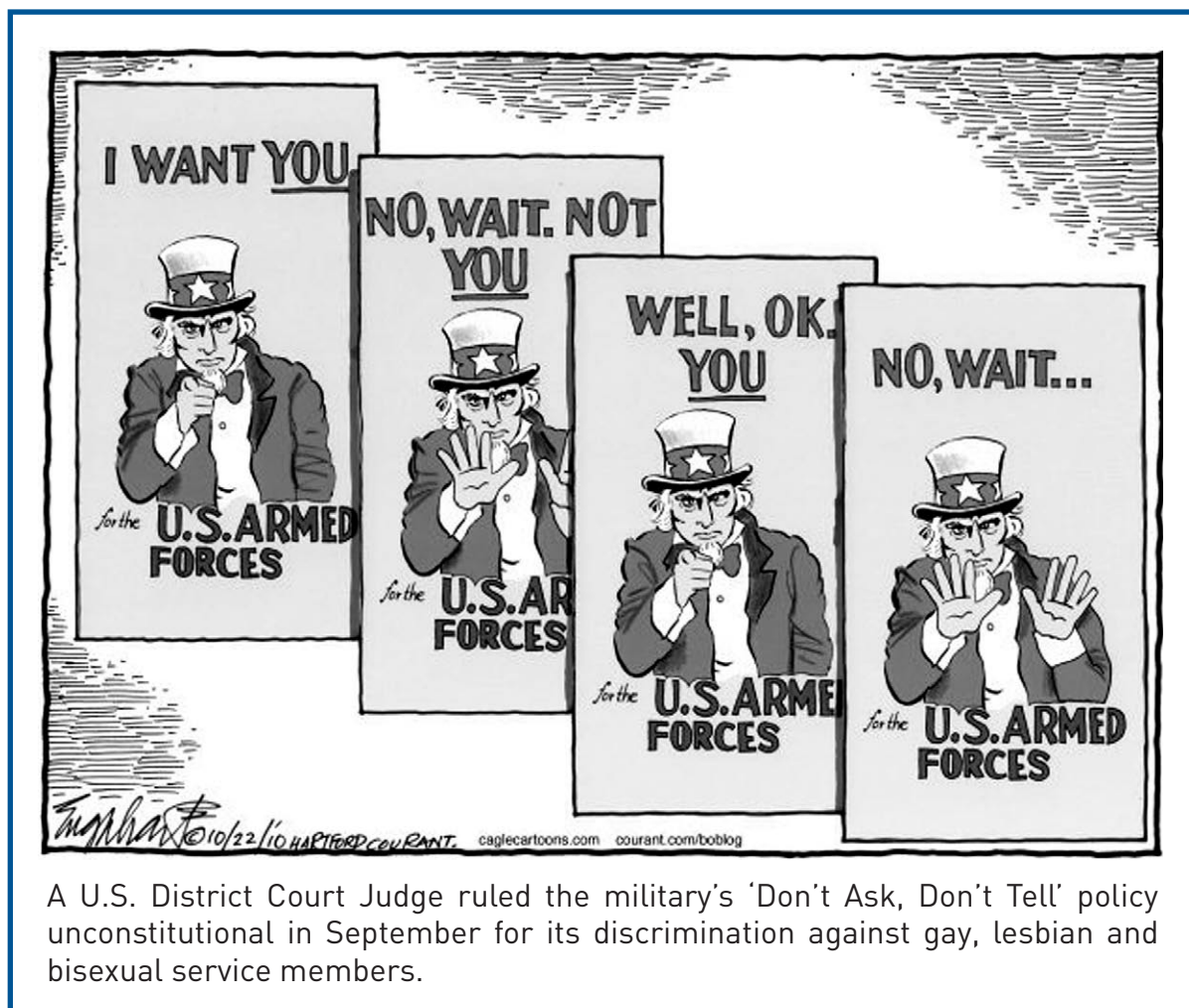
Over the past four years, the ACLU-NJ has pushed mightily for change — promoting specific reforms, educating the public about citizens' rights and filing lawsuits. We have urged the city to implement the one reform capable of overcoming the department's problems: establishing an independent monitor with the power to audit its operations and mandate the reforms to reshape it.

But progress has been glacial. Having exhausted virtually all other avenues, we have turned to the Department of Justice. The tools, expertise and authority needed to assess the department, create a blueprint for change and track the progress every step of the way can come only from outside.

The situation is akin to what we faced with the New Jersey State Police. Initially averse to the federal oversight established by a 1999 consent decree over racial profiling, the State Police ultimately came to embrace independent oversight over the 10 years it was monitored. The advanced training, new technologies and sophisticated systems to identify potential misconduct have raised professionalism and morale. State Police Superintendent Rick Fuentes exalts the changes.

The federal government did not come to Newark's aid following the 1967 unrest, and its citizens have suffered the consequences: abuse, humiliation, injury and even death. We can only hope that the Justice Department will see things differently, and that the mayor and police director will, in time, welcome a powerful partner that can redouble their efforts at reform.

The sooner the process begins, the sooner Newark's citizens and civil servants alike can experience a higher standard of law and order — and safety — in their city. [ACLU](#)



A U.S. District Court Judge ruled the military's 'Don't Ask, Don't Tell' policy unconstitutional in September for its discrimination against gay, lesbian and bisexual service members.

Everyone's (Got a Right to Be) a Critic

ACLU-NJ fights request to unmask anonymous e-mailer's identity.

The anonymous e-mail hit the inboxes of parents of students at Our Lady of the Magnificat School in Kinnelon on Feb. 4. Using a pseudonym, the e-mail's author blamed poor management for declining enrollment at the Morris County parochial school.

A few months later, Our Lady of Magnificat Church, which operates the school, went to court claiming the e-mail slandered the school and

The church attempted to sidestep the legal process to uncover the anonymous e-mailer's identity.

damaged its reputation. When a Superior Court judge in Morristown ordered Internet service provider Cablevision to disclose the e-mail's author, the author contacted Public Citizen and the ACLU-NJ.

In August, the two groups filed a brief arguing that the church's request violated the e-mail author's First Amendment rights. The court papers, filed with the assistance of Paramus attorney Richard L. Ravin of Hartman & Winnicki, ask the judge to vacate the order to Cablevision.

"The Constitution allows everyone to express an opinion on matters that concern them without worrying about undue retaliation," said ACLU-NJ Deputy Legal Director Jeanne LoCicero. "No one has the right to intimidate people into silence by threatening to unmask their anonymity."

The courts have held that an allegation of slander or libel alone is not enough to justify uncovering the identity of an anonymous critic. The accuser, in this case the church, must first file a defamation lawsuit that presents a strong case against the anonymous speaker. By seeking the identity of the anonymous e-mailer through an exchange of information between the parties rather than a lawsuit, the church attempted to sidestep the legal process. [ACLU](#)

ACLU-NJ Challenges Lord's Prayer at Point Pleasant Beach Meetings

Continued from page 1

government interference and protects citizens from government favoritism of one religion.

When she raised the issue with officials, including the current mayor, the previous mayor and at least one council member, they refused to address the matter. Cadalzo turned to the ACLU-NJ, which filed a suit on her behalf on Sept. 20 to permanently end the practice, and for an injunction barring the prayer during the litigation.

"Beginning a municipal council meeting with a prayer rooted in just one religious tradition not only violates the state Constitution, but also divides the community," said ACLU-NJ President and cooperating attorney Frank L. Corrado, of Barry, Corrado, Grassi & Gibson P.C. in Wildwood.

Public records revealed that the Lord's Prayer, one of the most well-known sectarian Christian prayers, has

been recited at Point Pleasant Beach public meetings for at least six years.

"People of all faiths and beliefs should feel welcome at public meetings," said Cadalzo, who has lived in the borough since 2000. "It's a matter of fairness. Members of the community should never have to fear that their beliefs will exclude them from public life."

After the ACLU-NJ filed suit, lawyers for the ACLU-NJ and Point Pleasant Beach reached a temporary settlement to replace the prayer with a moment of silence. The lawsuit, *Cadalzo v. Borough of Point Pleasant Beach, et al.*, is pending.

An audio file of the prayer and a copy of the complaint are available at www.aclu-nj.org

More information about the ACLU's defense of religious freedom is available at www.aclufightsforchristians.com [ACLU](#)

Faces of Liberty:

Robert Marks, 90



Robert Marks, a founding member of the ACLU-NJ who served on the board for more than 20 years, passed away Sept. 27 at the age of 90.

The ACLU-NJ mourns the loss of Robert Marks, one of the founding members of the New Jersey affiliate and a longtime member of the ACLU-NJ Board of Trustees. Marks died on Sept. 27.

Growing up in Troy, N.Y., Marks took an interest in social issues, especially free speech.

After serving in World War II and graduating from Harvard Law School, Marks moved to New York City and volunteered for the national ACLU, reading and summarizing cases.

When he moved to New Jersey, Marks met Emil and Edith Oxfeld at a dinner party, where they discussed the need for an ACLU affiliate in the state. A few months later, in June 1960, the ACLU-NJ was formed. In those early days, Oxfeld's law office in Newark served as the affiliate's de facto headquarters, where Marks screened calls and directed cases to attorneys.

Marks served on the ACLU-NJ Board from 1960 to the early 1980s. In the late 1970s, he joined the board of the Newark Beth Israel Medical Center, eventually serving for 16 years as its chairman. From the 1970s to the 1990s he was the president of Measurix, a supplier of specialty measures for the food, drug and chemical industries.

Marks is survived by his wife of 63 years, Paulina; three children; and four grandsons. [ACLU](#)

ACLU-NJ and ACLU Foundation to Hold Annual Meeting in January

The annual membership meeting of both the ACLU of New Jersey and the ACLU of New Jersey Foundation will be held January 26, 2011 at 7 p.m. at the Hyacinth AIDS Foundation in New Brunswick. The annual meetings are held in conjunction with the month's regular board meeting. All members are welcome to attend. For directions and any other information, call the ACLU-NJ at 973-642-2086.

ACLU News from Around the Country

Florida Court Allows for Gay Couples to Adopt

MIAMI — A Florida appeals court on Sept. 22 struck down a state law barring gay couples from adopting children. In 2004, ACLU client Martin Gill and his partner took in two young brothers, both victims of neglect, as foster children. But when Gill sought to adopt them in 2006, he met every criterion but one: the required sexual orientation.

When Gill first explained the legal battle years ago to the boys, then four and eight, the older child immediately recognized the most important fact: they were fighting for their rights as a family. The older son then filled several pages with his signature, thrilled that he would share his father's last name. Now the state government will recognize his new name, too.

South Dakota Affiliate Sues for Information on Women Pressured to Induce Labor

PIERRE, S.D. — The ACLU of South Dakota filed a Freedom of Information Act lawsuit on Sept. 27 against Indian Health Services (IHS), a federal agency, to learn details of pregnant women living on the Cheyenne River Sioux Reservation allegedly being pressured into inducing labor.

The reservation, the fourth largest in the United States, lacks obstetric care, forcing women to travel 90 miles to the closest IHS facility, in Pierre, the state capital. Once there, women have said they were ordered by facility staff to allow doctors to induce labor without any discussion of risks, benefits or alternatives.

The ACLU also requested information about a long-promised obstetric care facility planned for the reservation since 2002. The facility has hardly progressed despite Congress' appropriation of stimulus funds last year for the facility.

Air Force Nurse Reinstated, Despite Having 'Told'

SEATTLE — Major Margaret Witt, a decorated U.S. Air Force flight nurse, won a federal case that challenged her dismissal under the military's "Don't Ask, Don't Tell" policy barring members of the military from openly declaring their sexual orientation as lesbian, gay or bisexual. The court ordered the U.S. Air Force to reinstate her after a six-day trial, which resulted in a ruling from U.S. District Court Judge Robert Leighton that that Major Witt's sexual orientation does not undermine unit morale or cohesion. ACLU of Washington attorneys have represented Major Witt since her case began in 2006. [ACLU](#)



A Jersey City health club encourages guests to come as they are after the September decision overturning 'Don't Ask, Don't Tell.'

Tributes

In memory of Puneet Bhandari

Narendra C. Bhandari

In memory of Mildred Becker

Esther M. Bearg

In honor of Anja and Ray Miller's 50th Wedding Anniversary

Everett Belvin Williams

Bella August

In honor of Dan White

Deborah A. Hoffmann

In memory of Robert Marks

Edith Oxfeld

Ruth C. Schwartz

Shirley Churgin

Ed & Nicki Kessler

In memory of Lawrence White

Margarete Meyers

Vivian Stoopack

Deborah A. Hoffmann

Lillian Bortnick

Newman M. Bortnick

In Memory of Joe Kruskal

Ed & Nicki 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.

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The ACLU-NJ and the following volunteers contributed to this issue of the Civil Liberties Reporter: Peggy Brooks, Jay Gartman, Kendall LaParo, Rich Pliskin, Sylvia Stengle

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Help the ACLU of New Jersey build a safe and free future by investing in its mission. Defend liberty annually, quarterly, monthly. Make a special 50th anniversary tax deductible gift to the ACLU-NJ Foundation. For more information on how you can give monthly, call us at 973-642-2086. Visit our website to make a gift today: www.aclu-nj.org/donate

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