

# CIVIL LIBERTIES

# ACLU

AMERICAN CIVIL LIBERTIES UNION

New Jersey

aclu-nj.org

REPORTER



COVID-19 UPDATE:

## A Letter to Our Supporters

from ACLU-NJ Executive Director Amol Sinha

Dear Friends,

**A**s we all continue to face these unprecedented times, I wanted to personally express my gratitude for your continued support of the vital work we're doing, together.

Our new reality has shown us the depth of the fault lines in our society, from police violence to the fragility of the right to vote — and, overwhelmingly, they originate from racial injustices, and in turn exacerbate them.

We're working to ensure that Black lives truly matter, and we're confronting the civil rights emergency stemming from the COVID-19 pandemic.

- ✓ We've offered three immediate steps New Jersey can take to begin reimagining the role of policing in our society, including ending qualified immunity, embracing civilian review boards, and mandating real transparency regarding police misconduct.
- ✓ We've secured the release of dozens of medically vulnerable people from immigration detention, secured a ruling at the New Jersey Supreme Court adding due process to the governor's release of people from prison, and negotiated to release nearly 700 people from county jails.
- ✓ With advocacy partners and directly impacted community members, we worked to ensure the introduction of legislation that would create a pandemic credit to expedite the release of people whose sentences end within a year.

- ✓ We're also mobilizing community members to push for inclusion of all people, regardless of immigration status, in desperately needed government relief. We testified before the Legislature to allow people, regardless of immigration status, to be eligible for occupational licenses — the bill passed and has been signed into law.
- ✓ We held a virtual town hall with the families whose loved ones died of coronavirus in prisons and jails. They shared their heartbreak with all who were willing to listen, showing how important it is that the government do everything it can to drastically reduce our prison population — it's the only way to protect as many lives as possible.

Every day, we're doing everything we can to defend the rights of the most vulnerable, promote racial justice, and hold those in power accountable. None of it would be possible without your support.

We must not lose hope — together we can continue to make meaningful change, and our world will be better for it.

Onward,

Amol Sinha  
Executive Director

## Heartbreaking Calls for Change

### A Virtual Town Hall with Families of Those who Died of COVID-19 in Prison

**O**n May 14, families of loved ones who died in prison of COVID-19 and relatives fighting for the release of their loved ones still inside courageously shared their heartbreak through a virtual town hall hosted by the ACLU-NJ, Salvation and Social Justice, and New Jersey Campaign for Alternatives to Isolated Confinement, with support from the

Collaborative Support Programs of New Jersey, Latino Action Network, and the NAACP New Jersey State Conference.

It is imperative that the government drastically reduce the prison population by releasing as many people as quickly and safely as possible. It is the only way to save lives. The stories shared by family members show why — read their stories in their own words:

**“When he died, Darrell was 62 years old with a compromised immune system. I can’t help but not understand why he wasn’t moved out of harm’s way when he was in their custody — custody means protective care.”**

—Trena Parks

**Trena Parks shared the story of her brother, Darrell, who died of COVID-19 near the end of his sentence:**

“We spent a lot of time together before he was incarcerated. I would always go and visit him, and often I wanted work in Trenton just so I could be closer to him and visit even more.

“Darrell was always happy, he wasn’t bitter. He was just doing what he needed to do, he was just doing his time. To me, and to some of his friends, he was a role model.

“When he died, Darrell was 62 years old with a compromised immune



Trena Parks shared the story of her brother, Darrell, who died of COVID-19 near the end of his sentence.

system. I can’t help but not understand why he wasn’t moved out of harm’s way when he was in their custody — custody means protective care.

“In April, he was still in the general population even though he couldn’t breathe. It was only then that he was

taken to the hospital, where he passed away a week later. I can only imagine that last mile of Darrell’s life being a dark, dreary, lonely road that didn’t afford him the opportunity to be comforted by loved ones.

Continued on page 4

# ACLU-NJ Forms New Campaign Committee to Pass Marijuana Legalization Centering Racial Justice

## ACLU Report Reveals Worsened Racial Disparities in NJ's Marijuana Arrests

The staggering racial disparities in New Jersey's marijuana arrests have worsened since the last time they were analyzed, according to the ACLU's 2020 report "A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform."

racial disparity in marijuana arrests has become common knowledge, including among law enforcement, the problem has only grown worse," said ACLU-NJ Executive Director Amol Sinha. "The COVID-19 pandemic's spread in prisons and jails paints a

diverse campaign, NJ CAN 2020, formed by the ACLU-NJ and key allies in the effort to legalize marijuana in a way that centralizes racial justice. Leading this campaign is Axel Owen, an experienced campaign manager with a long history

Owen. "I look forward to uniting New Jerseyans around fixing the social, racial, and economic injustices that have derailed countless lives here in our state."

The new findings from the ACLU's report build on the ACLU-NJ's groundbreaking 2017 report, "Unequal and Unfair: NJ's War on Marijuana Users," which found that Black New Jerseyans were arrested at three times the rate of white New Jerseyans. That number has since increased: the New Jersey-specific data in the report, which analyzes 2018 arrest statistics, revealed that Black people were arrested for marijuana at a rate 3.45 times higher than white New Jerseyans, despite similar usage.

New Jersey ranked 11th for the highest rate of arrests of Black people for marijuana possession in 2018, and eighth in the nation in the arrest rate for marijuana possession per 100,000 people. Between 2010 and 2018, New Jersey saw an increase of 45.6 percent in its rate of marijuana possession arrests, the ninth highest increase in the nation.

"The disturbing facts of this report show that racial justice demands not only that we pass legalization on the ballot, but that we enact it through legislation that makes racial and social justice the top priority," said ACLU-NJ Policy Director Sarah Fajardo. [ACLU](#)



ACLU-NJ Executive Director Amol Sinha speaks at Governor Phil Murphy's press conference about legalizing marijuana.

In the same period, New Jersey's overall number of marijuana arrests increased, despite the fact that the vast majority of New Jerseyans believe it should be legal, primarily for racial and economic justice reasons.

"This report confirms what we've known to be true: even as the unjust

stark portrait of what's at stake when we make unnecessary marijuana arrests. We need New Jersey voters to approve legalization, and we need the legislation that enacts it to put racial and social justice front and center."

The release of the report coincides with the formation of a new,

of spearheading successful political campaigns.

"I am truly humbled to have the opportunity to bring real change to how New Jersey handles the social, racial, and economic justice impact of the war on marijuana," said NJ CAN 2020 Campaign Manager Axel



## Q&A with Axel Owen NJ CAN 2020 Campaign Manager

**A**xel Owen has hit the ground running as campaign manager of NJ CAN 2020, a coalition dedicated to passing marijuana legalization on the November 2020 ballot, with a focus on racial and social justice. NJ CAN 2020 was founded by a diverse group of organizations, including the ACLU of New Jersey, New Jersey NAACP, Latino Action Network, and Doctors for Cannabis Regulation.

Axel has a long record of running winning campaigns in New Jersey, and, as an NJ CAN 2020 steering committee member, the ACLU-NJ is excited to channel his talents on this campaign.

We asked him some questions about his plan for the campaign in these exceptional times.

**Q: How has COVID impacted legalization and cannabis reform in the Garden State?**

**A:** It's brought it up to the forefront, really. COVID has made millions of people across the country lose their jobs, and we have an opportunity to actually build an entirely new industry.

The horrific conditions we have seen in prisons and jails, where social distancing is impossible, remind us that marijuana arrests can have very serious consequences. And the racial disparity in marijuana has only grown over the years, with Black people arrested at a rate three times higher than that of white people.

COVID-19 has also given our campaign a different focus from traditional campaigning — knocking on doors and pounding the pavement — to digital ways of reaching New Jerseyans and new frontiers in online organizing.

**Q: Where do efforts to push for the passage of the ballot referendum currently stand?**

**A:** We have a robust campaign, and with COVID-19, we have to be nimble

and do everything we can with all of the tools we have.

We want to make sure that we are lifting up voices to push this forward and make sure that everybody has a seat at the table, and that racial and social justice are at the center of this campaign.

**Q: What form will the campaign take given the pandemic?**

**A:** We're going to bring on organizers and volunteers to talk to people in the digital sphere — whether Zoom meetings or Facebook Live, or LinkedIn events, or Instagram Live events. We need to go where people are, and that seems to be on social media and digital.

We need to make sure people understand what's going on during such a confusing time: what they're voting for, and how to do it, especially with mail-in ballots.

It's going to take us talking to someone five to seven times to ensure that we can get their vote, and we're making sure that with social media tools, we're able to have that kind of impact.

**Q: What excites you most about leading this campaign?**

**A:** Simply put, the potential it has to change lives — by reforming our racially disparate criminal-legal system, and by creating a new industry. The way we inform the public about the referendum will also shape the conversation after the vote.

The referendum is the first step in creating policies that truly advance racial justice and right the wrongs of the war on drugs, which has harmed untold numbers of people, especially people of color. We need to expunge arrests, have equity in the marijuana marketplace, and devote some of the revenue from marijuana to building up the communities of color that have disproportionately felt the blows of the drug war, among other important steps. [ACLU](#)

## OP-ED



### A lesson from Juneteenth: ‘We must shine a light in hidden places’

BY KAREN THOMPSON  
ACLU-NJ SENIOR STAFF ATTORNEY

The June 19, 1865 announcement by Union soldiers that enslaved people were free in Texas — received months after the Civil War ended — remains jarring in its dissonance:

“The people of Texas are informed that, in accordance with a proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of personal rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes that between employer and hired labor. The freedmen are advised to remain quietly at their present homes and work for wages.”

The last 200,000 Black people to be made aware of their “absolute equality of personal rights” were told, in the same breath, to “remain quietly at home.” That first taste of freedom was never meant to be a taste of equality, but instead a sugar-coated new set of restrictions, placing the upper limits of liberty well below the bare minimum of equality. The general order of supposed emancipation was, in truth, a call to action to reset the bones of white supremacy.

Juneteenth, the day memorializing that announcement, is clearly a celebration of freedom for Black people in America. It is also a glaring example of obstructed information being released and thus serves as a cautionary tale for this moment.

Until we shine a light on hidden places, statements from our leaders that Black Lives Matter ring hollow, like the caveats in that Texas order that spat out news of freedom.

To truly repair the damage of our uniquely American legacy of racial inequality, we must bring about true transparency and accountability in policing.

Achieving equality, like truly obtaining freedom after slavery, requires unfettered access to information. The bright light of information, whether from a cellphone camera, public records, or a forensic DNA test, safeguards the Fourth Amendment and other essential rights, which are too often only legal fictions for Black America.

To this end, the ACLU of New Jersey this summer proposed three immediate actions the legislative and executive branches can take to rein in misconduct as we begin the work of broadly re-imagining policing. That list included truly empowering civilian complaint review boards and limiting the principle known as qualified immunity, which lets police officers escape legal consequences for misconduct.

But at the top of the list was transparency.

Attorney General Gurbir Grewal’s June 15 order requiring departments to

disclose names of officers who commit serious misconduct was a powerful step in the right direction, but nowhere close to where we must be.

We need more than the promise of internal affairs summary reports and the names of officers with sustained “major discipline” allegations. We must know not just names, but histories, including past complaints that have never seen the light of day.

We cannot stop at police licensure. We need standards for police officers at least as rigorous as those we require from our hairdressers, lawyers, and plumbers.

We must codify the ability of Civilian Complaint Review Boards to oversee police abuses in their own communities, on their own terms, with real powers both to investigate wrongdoing through actionable subpoena powers and to hold wrongdoers accountable when misconduct is found, powers the Office of the Attorney General has fought vehemently.

We cannot allow misconduct to be buried, or for abusive officers to continue moving from one police department to another unpunished.

We must place checks on the legal doctrine of qualified immunity, which allows police to evade legal responsibility for their actions in those rare instances when misconduct is able to be undeniably exposed.

Our institutions reflect the culture they emerged from, a mindset captured on the editorial page of the Cincinnati Enquirer — a city that was the first stop past the border for refugees fleeing the South — just days after the Confederate surrender: “Slavery is dead, the negro is not; there is the misfortune.”

By demanding true transparency and accountability, we undo these racially damaged foundations and midwife equality into a policing structure with origins in injustice. We create space to reinvent governmental and law enforcement

institutions to serve people rather than power.

We can only ensure that Black lives do, in fact, matter, if their importance is not relegated to hashtags and cardboard signs, but reflected in the living relationship between government, law enforcement, and person.

The very existence of Juneteenth reveals how the “absolute equality of personal rights” can be thwarted by information deferred. As we seek to address centuries-old injustices, we must learn Juneteenth’s essential lesson: freedom, this time, must be on time.

*Karen Thompson, Esq., is the senior staff attorney at the American Civil Liberties Union of New Jersey. ACLU*



ACLU-NJ supporters helped lead to the creation of Newark’s historic Civilian Complain Review Board, the first of its kind in New Jersey.

## ACLU-NJ Secures Release of Medically Vulnerable Immigrants from ICE Detention

When the pandemic began, ACLU-NJ lawyers and organizers knew that people being held in immigration detention would be among the most vulnerable to COVID-19 infection. In New Jersey, people detained by ICE are held in county jails or a private jail, all of which are unsanitary and unhealthy places in the best of times, and where it is impossible for people to be socially distant.

Since March, ACLU-NJ staff have worked, sometimes around the clock, to secure release of people being held by Immigration and Customs Enforcement (ICE). ACLU lawyers and cooperating attorneys have litigated for the release of people who have underlying health conditions — such as asthma, diabetes, and hypertension — that put them at high risk of serious illness or death if they contract COVID-19. Overwhelmingly, this litigation has resulted in our clients’ releases.

For one of our clients, who missed the birth of his newborn child while

fighting for his release, the successful lawsuit meant he could hold his baby.

The ACLU of New Jersey has filed habeas petitions on behalf of nineteen medically vulnerable people in immigration detention. In addition to benefitting from collaborating with national ACLU colleagues, we have partnered with the Legal Aid Society, Bronx Defenders, American Friends Service Committee, Paul, Weiss, Rifkind, Wharton & Garrison LLP, and Gibbons P.C.

As of publication, seventeen clients had been released. Many of the cases will continue throughout the public health crisis, including ones that the government has appealed to the circuit court.

“COVID-19 is a life-threatening disease that has no vaccine and no cure,” said ACLU-NJ Senior Staff Attorney Farrin Anello. “People deprived of their liberty in a detention center are prevented from taking even the most basic steps recommended



ACLU-NJ supporters gather at a rally in support of keeping families together.

by public health experts during this pandemic, such as social distancing and increased hand-washing. It is immoral to hold people in detention centers in the midst of the worst public health crisis our country has faced in a century.”

These rulings join a significant number of courts around the country that have ordered the immediate release of medically vulnerable individuals in ICE detention, recognizing that such detention violates constitutional due process. ACLU

TRIBUTES

- In memory of Laury A. Betha**  
Reva W. Betha
- In memory of Puneet Bhandari**  
Narendra Bhandari
- In honor of Black Lives Matter**  
Breanna Acitelli, Sandra Haim and Eric Saldarriaga
- In memory of Frances Brewster**  
Diane Farmer & Nila Myers, Charlotte Ryan
- In honor of Drew Bridges**  
Heidi Sherman
- In honor of Brent Chabus**  
Alina Chabus
- In honor of Asher DiMaggio**  
Benjamin Goldstein
- In honor of Robert Edgar**  
Michelle Edgar
- In honor of Peter & Joan Eilbott**  
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- In memory of Michael Fielo**  
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- In memory of Anne Freedman**  
Anne & Gerald Freedman Charitable Foundation, Inc
- In honor of Justice Ruth Bader Ginsberg**  
Carol Murray
- In honor of Lou Gorra**  
Elizabeth Banwell
- In memory of Leon Gucwa**  
Susan Bernstein
- In honor of Hold for Zoom Tone Media Festival**  
Collin Borow
- In memory of Peter Kelley**  
Katherine Kelley & Elizabeth Shadbolt
- In memory of Alan Krumholz**  
National Employment Lawyers Association of New Jersey
- In memory of John Lewis**  
*"So I say to you, walk with the wind, brothers and sisters, and let the spirit of peace and the power of everlasting love be your guide."*  
—John Lewis, July 30, 2020  
John O'Connor
- In memory of Luis Merlo**  
Jane Rutkoff
- In memory of Richard Neiman**  
Peter & Randi Lipkin
- In honor of Voices Matter**  
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Liam O'Brien
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Katherine Scheuer
- In memory of Peter van Schaick**  
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- In honor of Patrick ShROUT**  
Tim ShROUT
- In honor of Justice Gary Stein**  
Jerald Baranoff
- In memory of Breonna Taylor**  
David Hashagen, Dylan Wood
- In honor of Team Four Cheeses**  
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- In honor of Barry Tomkins**  
Jessica Tomkins
- In memory of Marquise Tooley**  
Dawn West
- In honor of Trivia #7**  
Keval Ramanathan

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.

Virtual Town Hall

Continued from page 1

"We must stop giving excessive sentences to black males, and we must release the vulnerable people in prison to ensure everyone's health and safety."

**Bernice Ferguson shared the story of her oldest son, Rory, who died of COVID-19 while waiting for furlough:**

"Rory was my firstborn child. He had just turned 39 years old in March. I am so brokenhearted because my son was a sweetheart — he had a laughter that would make anyone happy. He was such a joyous young man.

"And to have my son not come home, and me not be able to hear my son's laughter or get a hug from my son, has just destroyed my whole entire everything. My son was my life. He was

just two weeks shy of coming home.

"Rory was rushed to the hospital because he couldn't breathe. While he was there, I couldn't speak to him or visit him. I was so used to hearing my son's voice on the phone, just about every day, even though I haven't seen my son in over 3 years.

"I had so much planned for him. I was going to throw a big party for him, and I don't get to do that. So, the party that was planned for my son was to go to heaven. And I should not have had to do that. That was my child. They act like he didn't even have a mother

"Sure, children make bad decisions, we all do. But to take somebody's life? That's what they did. They stole my baby's life.

"All I can say is, everyone that was supposed to come home, they should have released them. I don't get to see my son anymore. I have to visit a gravesite to see my son." **ACLU**



Bernice Ferguson shared the story of her oldest son, Rory, who died of COVID-19 only weeks shy of his release date.

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