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CIVIL LIBERTIES

REPORTER

FALL 2024

ACLU

AMERICAN CIVIL LIBERTIES UNION

New Jersey

aclu-nj.org

2024 ELECTION

Our Roadmap to Protecting Democracy *and Holding Trump Accountable*



CREDIT: FABIENNE CALKINS, "DONALD TRUMP" BY GAGE SKIDMORE/Flickr.COM, LICENSED UNDER CC BY-SA 2.0 (<https://creativecommons.org/licenses/by-sa/2.0/>), CHANGES MADE.



BY AMOL SINHA
EXECUTIVE DIRECTOR

As the country faces a second Trump administration, the threats on rights and liberties grow by the day. Based on his previous term, and his rhetoric on the campaign trail, President-elect Trump has signaled he plans to dismantle democracy as we know it. But the ACLU is better prepared than ever to confront efforts to undermine our democracy – during his previous term, we filed more than 400 legal actions against the Trump administration, and we’re ready to fight back again. With more than 100 years of experience across 19 presidential administrations, we are prepared to do all we can to preserve, protect, and advance civil rights and civil liberties.

New Jersey has shown that it is possible to achieve meaningful change in the face of national challenges. Since the beginning of the previous Trump administration, as rights remain under attack unlike ever before, the Garden State has enacted new protections to safeguard reproductive freedom, advance immigrants’ rights, and achieve fairer elections. New Jersey has legalized cannabis in a way that centers racial and social justice, released more than 9,000 people from state prisons and jails, and continues to provide a leading example for the nation on advancing civil rights. Over the course of the past several years, the ACLU-NJ has impactfully advocated for fundamental rights in the courts, in the legislature, and in communities across the state at unprecedented rates. We are uniquely positioned to combat attempts to slash individual freedoms, and we will spend the next four years doing all we can to defend them.

As President-elect Trump attempts to implement Draconian policies, including those outlined in Project 2025, we know there will be a flood of attacks across nearly all civil rights and liberties, including on immigrants’ rights, voting rights, reproductive freedom, and more. But take us at our word: the ACLU is more

prepared than ever to ensure Trump is held accountable for any policies that undermine individual freedoms.

We will challenge family separation, mass deportation, and unjust immigration detention. We will reject any attempts to ban abortion. We will fight back against any target-

expanding abortion access for all; ending mass incarceration by releasing people from prison at the largest scales, including through categorical clemency; and prioritizing data-driven, human-centered solutions to bolster public safety while rejecting tough-on-crime approaches to public policy.

“WITH MORE THAN 100 YEARS OF EXPERIENCE ACROSS 19 PRESIDENTIAL ADMINISTRATIONS, WE ARE PREPARED TO DO ALL WE CAN TO PRESERVE, PROTECT, AND ADVANCE CIVIL RIGHTS AND CIVIL LIBERTIES.”

ing of protestors or dissenting voices. We will combat voter suppression. And in every state we can, we will build a pro-civil rights firewall to protect those at risk of harm by the federal government.

In New Jersey, that means passing the John R. Lewis Voter Empowerment Act to expand access to the ballot box; enacting the Immigrant Trust Act to ensure local resources aren’t used in federal immigration enforcement;

These strategies will help us block dangerous executive action in some cases and mitigate the harm in others. We know there will still be unforeseen, egregious threats to rights and freedoms that may not be covered in our roadmap, but despite the pain and despair felt among communities in this moment, the ACLU and our partners are ready to do all we can to ensure communities thrive and democracy prevails. ■

IMMIGRANTS' RIGHTS

On Behalf of Farmworker Advocates, ACLU-NJ, ACLU, and Seton Hall Center for Social Justice File Complaint Seeking to End Wage and Overtime Discrimination

Farmworkers in New Jersey are among the state's most marginalized residents – they receive low wages, have little union representation, and many cannot vote in elections. This reality makes farmworkers especially vulnerable to unfair workplace treatment. New Jersey has denied farmworkers the right to overtime pay since 1966, excluding them from the wage and hour protections that it guarantees to other similarly situated workers. This is why, on August 7, the ACLU-NJ, the ACLU Immigrants' Rights Project, and the Seton Hall

beginning in 2024, legislators once again disqualified farmworkers from equivalent protection, setting a lower minimum wage and instituting only incremental wage increases until 2030. New Jersey lawmakers modeled these farmworker exclusions on equivalent ones in the Fair Labor Standards Act and other New Deal labor laws, which were both designed to perpetuate racial discrimination by specifically excluding Black and minority workers.

ACLU-NJ Staff Attorney Molly Linhorst sat down with Edgar Aquino-Huerta, Farmworker Organizer at CATA, to talk more about his work as a farmworker, a filmmaker, a storyteller, and an advocate. The following interview has been edited for length and clarity.

Molly Linhorst: You have deep personal experience as a farmworker. Can you tell us more about who you are and how you became involved in this line of work?

Edgar Aquino-Huerta: I was born in Puebla, Mexico. My grandfather was actually a farmer in Puebla. He had plots of sugar cane and was one of the well-known farmers of our town, so “huerta” was already in my blood and is my last name as well. “Huerta” is a form of another Spanish word, “huerto,” meaning “field” in English.

I was two years old when my mom and I came here in search of opportunities, and we came directly to South Jersey because my grandfather had established himself here years prior as a migrant worker.

Growing up in the community with many farmworkers, like my parents, I witnessed firsthand the challenges and injustices that they faced. This personal connection fueled my passion for advocating for farmworker rights.

ML: You're now a farmworker organizer for CATA. How did you start your work there?



Edgar Aquino-Huerta watering plants in a greenhouse.

CREDIT: USED WITH PERMISSION FROM EDGAR AQUINO-HUERTA

EAH: I started working on projects with them in South Jersey at the start of the pandemic in 2020. Farmworkers weren't being recognized as essential workers, and my friends and I wanted to do something to honor them. We held a caravan for them in Vineland in May, which is where we could find the most workers, and had a lot of cars turn out. It was a good feeling because I've always wanted to do something like that and wanted to keep doing more for the community in general. We started

doing food drives or food “dispensas” for people in the community. I was learning how to coordinate things and getting a sense of what it felt like to be a leader. Shortly after, Jessica Culley, the General Coordinator at CATA, reached out about coming with her to one of their worker forums to learn more about the kind of outreach they do, and mentioned they had a job opening. I knew I wanted to apply.

ML: Historically, farmworkers have been among some of New Jersey's most marginalized residents which has made them especially vulnerable to unfair workplace treatment. Can you tell us about these sorts of challenges and how they impact people?

EAH: Growing up in a farmworker community, I saw the struggles that my family and my neighbors endured due to low wages, lack of political representation, and the vulnerability to exploitation. These challenges shaped my perspective and fueled my determination to advocate for change.

Farmworkers don't earn a livable wage – it's below the minimum wage that nearly all other workers earn in New Jersey, and right now everything is going up in cost. People can't send as much money back home because they still must pay their bills here. And many have to waste money on a ride for a taxi to get to work because there is very little public transportation available in rural areas. ■



Edgar Aquino-Huerta at work outside a greenhouse. CREDIT: USED WITH PERMISSION FROM EDGAR AQUINO-HUERTA

Law School Center for Social Justice filed a lawsuit on behalf of El Comité de Apoyo a los Trabajadores Agrícolas (CATA) – a grassroots organization advocating to improve the working and living conditions of farmworkers and the Latine immigrant community.

The lawsuit argues that the exclusions in New Jersey's wage and hour laws denying farmworkers equal wages and overtime protection are discriminatory, and that these exclusions violate the state constitution's prohibition on special laws.

Despite amending the law in 2019 to increase the minimum wage to \$15



“GROWING UP IN THE COMMUNITY WITH MANY FARMWORKERS, LIKE MY PARENTS, I WITNESSED FIRSTHAND THE CHALLENGES AND INJUSTICES THAT THEY FACED. THIS PERSONAL CONNECTION FUELED MY PASSION FOR ADVOCATING FOR FARMWORKER RIGHTS.”

Edgar Aquino-Huerta working in a greenhouse. CREDIT: USED WITH PERMISSION FROM EDGAR AQUINO-HUERTA

CRIMINAL LEGAL SYSTEM

It's Past Time to Decriminalize All Drugs:

STORIES FROM ADVOCATES AND SURVIVORS

The United States has had punitive drug policies in place since the late 1800s, beginning with laws targeting immigrants and Black people. These laws, based in fear and racism, have perpetuated over-policing for more than a century and led to the overdose death crisis. They have proven to be ineffective at reducing drug use and preventing overdose deaths and have instead furthered the marginalization of already vulnerable groups, and actively discourage people from seeking community resources and treatment.

The modern-day drug war began in the 1970s and was devised to control and criminalize Black and brown communities and anti-war protesters. Today, New Jersey continues to spend exorbitant amounts on drug law enforcement at the expense of proven community-based responses. Between 2010 and 2019, New Jersey spent over \$1.2 billion annually on policing, prosecution, and incarceration stemming from drug criminalization while nearly 20,000 New Jerseyans died of a drug overdose.

Total departure from punitive policies is mandatory for overdose prevention measures to succeed. New Jersey must adopt public health approaches that prioritize community-based resources and harm reduction infrastructure that are proven to prevent overdose and provide further linkages to care and personal dignity. This is why the ACLU-NJ has called for the decriminalization of all drugs.

To hear more about the human toll that drug criminalization takes, we spoke with advocates and survivors:

- Tonia Ahern, Community Coordinator for the National Center for Advocacy and Recovery
- Caitlin O'Neill, Drug User Health & Liberation Strategist for the New Jersey Harm Reduction Coalition (NJHRC)
- Ayesha Rogers, Outreach Worker for the Newark Community Street Team

ACLU-NJ: The United States has had punitive drug policies in place since the late 1800s, continuing today with the perpetuation of the drug war that was devised to control and criminalize Black and brown communities – can you share how these punitive laws have affected you and/or your community?

Tonia Ahern: The criminalization of drug use has normalized punitive responses to children and adults who use drugs, especially in Black



Tonia Ahern holding a photo of her son Rory, March 2024. CREDIT: CHRISTOPHER LOPEZ

and brown communities. We've been told that punishment will "fix" someone but what it has actually done is added trauma to people who may already have experienced trauma in their lives. Criminal justice involvement creates barriers to access education, healthcare, employment, housing, etc., making it more difficult to be well.

I continue to help family members who believe that jail will save their loved one. Sadly, this idea is supported by people who have been incarcerated and have been told, and believe, that jail saved their lives. They believe that all of the barriers and challenges that resulted from their involvement in the criminal justice system are what they deserved. They are taught that they should be grateful and accept the consequences as the solution to their bad behavior.

The most difficult group to educate about decriminalization is the recovery community and families. As much as they talk about the power of connection, they still believe jail is how we control people.

ACLU-NJ: Can you imagine a future where New Jersey prioritizes the humanity and dignity of people who use drugs? What does that future look like? What does decriminalizing drugs mean to you?

Caitlin O'Neill: I absolutely imagine that future, and work toward it every day. That future includes things like mental health care, medical care, and substance use disorder (SUD)



Caitlin O'Neill, March 2024. CREDIT: CHRISTOPHER LOPEZ

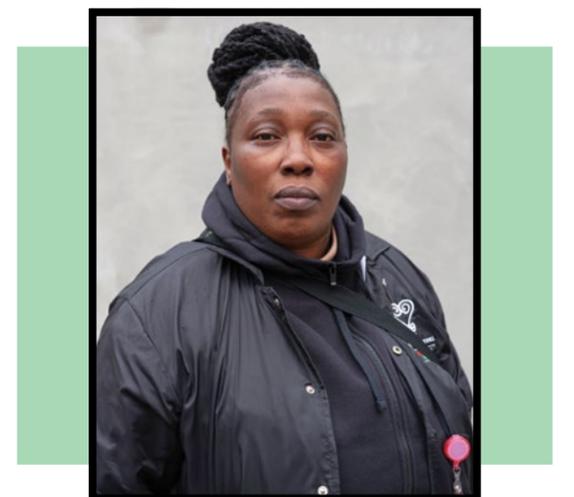
treatment available on demand the moment it is requested. It requires more realistic and modern SUD treatment models like harm reduction counseling and options outside of mandated abstinence. It requires housing-first initiatives, overdose prevention centers where people who are already using drugs can use them, if they choose to, in a safer and non-coercive care setting to prevent overdose deaths and connect to a broader continuum of support options. It requires doctors, nurses, and all healthcare workers to stop shaming us for our choices and treating us like we did something wrong when we land in their care or seek medical attention. It requires 24-hour drop-in shelter options, non-congregate shelter settings like repurposed motels or office buildings turned into transitional housing, options for couples and partners to shelter together, options for pets or remote pet care. And overall, it would require people to begin to be treated just as competent, thoughtful, capable, insightful, and important

as they see themselves. But there are some long standing institutions, like law enforcement and the SUD treatment industrial complex, in NJ that would need major restructuring and improved education to achieve that.

Decriminalizing drugs is about reducing the restrictive barriers that prevent drug users from trusting existing systems of care and creating space for care to be updated to the current best practices based on feedback and client participation. It's about never having to navigate inner turmoil and gut wrenching decisions like "can I report this assault without getting arrested myself?" or "do I stay in the hospital to care for this infection to avoid amputation, or leave because I am in extreme physical distress from opioid withdrawals and being deprioritized for care" or "do I call 911 to help my friend who is overdosing but not waking up after naloxone and take the chance of having my warrants run when law enforcement shows up before EMS?" Those are things no person should ever have to decide between.

ACLU-NJ: Research shows that harm reduction strategies – like syringe access programs, safer supply, access to naloxone, etc. – prevent overdose and provide further links to care and community resources for those who request it. Can you tell us how harm reduction programs – or a lack thereof – may have impacted your life?

Ayesha Rogers: Harm reduction programs educate individuals about safer ways to use drugs, such as using clean needles. It reduces the risk of infections like HIV and hepatitis C. Overall, harm reduction programs prioritize the well-being and dignity of individuals who aim to mitigate the immediate risk associated with drug use. While fostering opportunities for individuals it improves their health and quality of life on their own terms.



Ayesha Rogers, March 2024. CREDIT: CHRISTOPHER LOPEZ

Assumptions are made to make those less fortunate look like drugs were the way of their life, where life sometimes takes you down roads you didn't plan to go. We all fall short, we all make bad decisions, who are we to judge? Not all people who use drugs come from bad homes, life just happens and we all deserve to be met right where we are, not turned away because of our choices. We should love those that are in need to be loved and help those that want to be helped. We all deserve a second chance. ■

Read these stories in their entirety at aclu-nj.org.

DECARCERATION

Extreme Trial Penalties Are Deeply Unjust – Categorical Clemency Can Bring Justice

BY REBECCA UWAKWE
SENIOR STAFF ATTORNEY



Decades of “tough-on-crime” policies based on racial bias and fear have created a mass incarceration crisis. Even though New Jersey has taken major steps toward decarceration – resulting in a reduction of the state’s incarcerated population by more than 50 percent since 2011 – too many people are still serving sentences that are not commensurate to their crime or culpability.

Unfortunately, this often occurs when a person rejects a plea deal and is sentenced to an excessively long sentence after going to trial.

No one should be punished for exercising their constitutional right to a fair trial. This sentencing discrepancy, known as a trial penalty, is callous and massively harmful. It’s past time for New Jersey – and our society at large – to begin prioritizing human experience instead of punishing it.

This year, on June 19, Governor Murphy issued a historic executive order creating an advisory board to review petitions for pardons and commutations, specifically expediting the process for people who meet certain criteria for consideration. In other words, he will offer groups of people the opportunity to have their case reviewed for a shortened sentence and has committed to including people with sentences impacted by excessive trial penalties.

Because New Jersey governors historically have underutilized their clemency powers, Governor Murphy’s commitment to taking a categorical approach that includes trial penalties is an important step forward in mitigating injustice.

People of color are disproportionately affected in sentencing, especially in New Jersey, which has the worst racial disparities in its incarcerated population in the nation. This reality has been fueled by an indifference to the challenges faced by Black and brown communities, harmful policies



Governor Phil Murphy signs an executive order launching his administration’s clemency initiative on June 19 at Saint James A.M.E. Church in Newark. CREDIT: CHRISTOPHER LOPEZ

founded on racial bias, fearmongering, and so-called “tough-on-crime” approaches, such as the failed drug war. These are exacerbated by the fact that people of color are often treated more harshly by judges and prosecutors because of implicit biases.

Offering clemency to people facing extreme trial penalties would go a long way toward rectifying these deeply ingrained racial inequities.

First, it’s important to understand extreme trial penalties – and just how immoral they are.

For one, judges often get frustrated when those facing charges decide to exercise their right to a trial – and impose a harsher punishment as a result. According to Martín Sabelli, past president of the National Association of Criminal Defense Lawyers, judges have made statements to the effect, “If you plead before trial, you get mercy; after trial, you get justice.”

Or in some cases, judges impose harsh sentences simply because they are bound by mandatory minimum requirements. They don’t have the leeway to base the penalty on the unique circumstances of the case.

Many proponents of this system claim that people can freely choose whether to go to trial or accept the shorter sentence. But the reality is far more complex.

People might fear – due to rampant injustices at many levels of our court system – that they will not be able

to get a fair trial, so they defer to a shorter sentence.

People may often feel pressured to take a plea deal as the offer escalates and time shortens – and they come to realize that the system is stacked against them. They fear the length of incarceration that follows if they were to be found guilty at trial.

Ultimately, it is deeply immoral to impart extremely different sentences solely based on who exercises their constitutional rights. It is inhumane to deprive people of years with their families and communities for opting to go to trial.

Fortunately, clemency – and categorical clemency specifically – provides an opportunity to mitigate these injustices.

Governor Murphy’s announcement is indeed revolutionary. Leveraging clemency powers is imperative, but our state must do more – like eliminating mandatory minimum sentences – to ensure fairness and justice for all. New Jerseyans deserve a criminal legal system that treats people with humanity and compassion. ■

CIVIL LIBERTIES REPORTER

Published by the American Civil Liberties Union of New Jersey, P.O. Box 32159, Newark, NJ 07102
973-642-2086 | info@aclu-nj.org | aclu-nj.org

ISSN: 0009-7934

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In honor of Kal Barson

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In honor of Jona Cannon

Vicki Carter

In honor of Bobby Cohen

Maddy deLone

In memory of Raymond Harper

Frances Forte-Gomolson & Richard Gomolson

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Valerie Del Vecchio

In memory of William H. Lorentz

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In memory of Hon. Bill Pascrell

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