

CIVIL LIBERTIES

ACLU

AMERICAN CIVIL LIBERTIES UNION

New Jersey

aclu-nj.org

REPORTER



Hundreds of people marched in Metuchen on Jan. 28 against the detention and deportation of their neighbors.

Deportation of Dozens of Indonesians Halted

ACLU-NJ & ACLU WIN EMERGENCY SUIT TEMPORARILY HALTING DEPORTATION OF INDONESIAN CHRISTIAN NEW JERSEYANS TO LIFE-THREATENING CONDITIONS

A team of attorneys worked through the night, taking shifts to file the brief faster. With the safety of dozens of longtime New Jersey residents threatened by the prospect of religious persecution, the ACLU-NJ rushed to the federal courthouse in Newark seeking to halt deportations of Indonesian Christian New Jerseyans before the clerk's office closed at 4.

At 3:58 on Friday, Feb. 2, the suit — filed by the ACLU-NJ, ACLU Immigrants' Rights Project, and the law firm Paul, Weiss, Rifkind, Wharton & Garrison appearing pro bono — was hand-delivered.

Federal District Court Judge Esther Salas asked for an immediate hearing. By 7 p.m., after arguments from

ACLU-NJ Senior Supervising Attorney Alexander Shalom, Judge Salas ruled to halt the deportations temporarily.

The ruling set in motion a five-week timeline to make additional arguments concerning the central issue: that the summary deportation of these longtime community members violates due process and deprives them of the opportunity to argue their case for asylum.

"These community members, our neighbors, are entitled to argue their case with the protections of due process, especially when the stakes are life and death," said ACLU-NJ Executive Director Amol Sinha.

Continued on page 2

A Vision is Unveiled for Shrinking Mass Incarceration in New Jersey

New Jersey has a mass incarceration crisis. It arose from a range of causes, and solving it calls for a range of solutions — which is why the ACLU-NJ has released an ambitious plan: *A Vision to End Mass Incarceration in New Jersey*.

The vision breaks down steps that could lead New Jersey prisons and jails to see their population shrink by nearly 20,000 people. The ACLU-NJ sent copies to legislators and the administration of Governor Phil Murphy.

The vision puts forth a range of policy reforms small and large:

- Full implementation of New Jersey's historic bail reform
- Marijuana legalization and ending arrests for other low-level offenses
- Changing the culture of prosecutors and judges to consider alternatives to overzealous prosecution and jail sentences



New Jersey in particular has the worst racial disparity in the imprisonment of Black and white individuals, with Black New Jerseyans arrested at a rate 12 times higher than white New Jerseyans, according to The Sentencing Project.

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First publicly known 'Dreamer' Admitted to State Bar

ACLU-NJ CLIENT, SWORN IN BY AG, MAKES HISTORY IN NJ & PA

When Parthiv Patel applied to practice law in New Jersey in 2016, he didn't know whether he would be admitted.

He could not have imagined that a year and a half later, the attorney general of New Jersey would administer his oath to practice law, that the state's governor would offer to stand as a barrier between him and ICE, or that House Minority Leader Nancy Pelosi would mention his story during a marathon filibuster-style speech on the House floor.



On Jan. 24, Parthiv Patel became the first publicly known Dreamer to be admitted to both the Pennsylvania and New Jersey bar.

On Jan. 24, Patel became the first publicly known 'Dreamer' — a term for residents of this country who were brought to the U.S. as children — to be accepted to the New Jersey bar, with legal help from the ACLU of New Jersey. In Dec. 2017, he became the first Dreamer admitted to the bar in Pennsylvania, with legal assistance from the ACLU of Pennsylvania.

"Today, I stand here with one message: Dreamers are Americans. We are fifth graders alongside your children in the school play. We are your friends and your colleagues. We are your doctors, your accountants, and now, in New Jersey, your lawyers," Patel said in remarks following the swearing-in ceremony in Trenton. New Jersey Attorney General Gurbir Grewal administered the oath. New Jersey Governor Phil Murphy seized on the occasion to announce New Jersey's plan to join a lawsuit filed by New York Attorney General Eric Schneider challenging the Trump administration's rescission of the Deferred Action for Childhood arrivals program, known as DACA.

Patel, a graduate of Drexel University Thomas R. Kline School of Law, is the first publicly known DACA recipient to be admitted to practice law in New Jersey. He hopes to use his law degree to serve others.

"This ceremony comes at a time of increasing uncertainty and chaos for our Dreamers," Governor Murphy said at the ceremony. "But Dreamers like Parthiv are just as American as anyone in this state and they should not feel like the federal government is working against them. Dreamers have infinite potential and it would be an enormous injustice to push them out of the only country they have ever known."

Patel moved to the United States from India at age 5 and received DACA in 2012, granting him authorization to work in the United States. After graduating from law school, Patel passed the bar exams of both New Jersey and Pennsylvania in July 2016. His application for bar admission stalled when the Pennsylvania Board of Law Examiners notified him that his immigration status made him ineligible. Patel appealed with help from the ACLU of Pennsylvania and several cooperating attorneys.

Continued on page 2

A Call for Justice in New Jersey

TAKING ON THE PREDATORY PRACTICES OF PRISON AND JAIL PHONE VENDORS

To a person locked behind bars, a phone call home is a lifeline. However, to at least one vendor, Securus Technologies, Inc., it's also an opportunity to wring outsized profits from a captive consumer.

In a blistering friend-of-the-court brief, the ACLU of New Jersey — along with the Immigrant Rights Clinic of Washington Square Legal Services, Inc.; New Jersey Advocates for Immigrant Detainees; First Friends of New Jersey and New York; and the Prison Policy Initiative — argued that New Jersey's restrictions on predatory phone rates in prisons do not violate the rights of a private phone service provider.

Securus claimed in a lawsuit, *Securus v. Christie*, that its loss of hypothetical profits as a result of New Jersey's rate control law amounted to a constitutional affront. The State filed a brief asking the Appellate Division of the Superior Court to dismiss the phone company's case, which seeks to declare the law regulating prison-based phone rates unconstitutional and enjoin the law's application.

"It's wrong to exploit a literal captive market, which is exactly why New Jersey put limits on phone rates in prisons," said Liza Weisberg, Catalyst Fellow at the ACLU-NJ, who wrote the ACLU-NJ's brief in the case. "Securus, one of the largest prison phone vendors in the country, is attempting to cloak its greed in the costume of constitutional injury, and we hope the court recognizes the flaws in its arguments."

Operating phone services in prisons and jails is a \$1.2 billion-a-year industry dominated by a small number of companies that set rates and fees far in excess of those charged by ordinary commercial providers. Prison and jail phone vendors can charge exorbitant rates because every contract gives them a monopoly in the contracting facility. For example, an inmate who wants to wish her child a happy birthday has a choice: use the facility's vendor or skip the call.

Kickback schemes also drive up calling rates. Because facilities have no incentive to select the vendor that offers the most competitive rates, they're usually motivated to choose the vendor that promises them the largest kickback, unless a law like New Jersey's rate-control statute specifically limits it.

The case represents a critical test for the movement for phone justice. Now, it falls to states like New Jersey to lead the fight against exploitative jail and prison calling rates. **ACLU**



A provider of phone services in prisons and jails argued that a law capping rates amounts to a constitutional affront. The ACLU-NJ argued otherwise.

Indonesian Christians

Continued from page 1

Rounding up community members without notice or an opportunity to be heard, based on years-old removal orders that predate a recent uptick in violence against Christians in Indonesia, violates the Fifth Amendment right to due process and unconstitutionally denies the right to seek protection from persecution. U.S. law prohibits removal of people who would likely face persecution or torture, a risk that courts have ruled would apply to Christians, especially those of Chinese descent, in Indonesia.

The roundups that led to the suit unfolded even more dramatically than the filing. Roby Sanger and Gunawan Liem were detained without warning on Jan. 25 after they had dropped off their children at school, despite never having missed check-ins with ICE under an agreement put in place in 2009.

Harry Pangemanan, a leader in his church who has received accolades for leading a team of 3,000 people in re-building more than 200 homes destroyed by Superstorm Sandy, scrambled to take refuge in the Reformed Church of Highland Park, co-led by the Rev. Seth Kaper-Dale and Rev. Stephanie Kaper-Dale, to avoid detention.

In 2009, dozens of Central Jersey residents, including those in this suit, identified themselves to ICE as part of a program giving work authorization and stays of deportation to Indonesian Christian community members in exchange for coming out of the shadows, an agreement ICE worked out with Rev. Kaper-Dale. Thousands of people fled Indonesia in the late

1990s amid political instability, domestic unrest, and attacks against Christians. In Central Jersey, a community of these asylum seekers grew.

"The government understands the threats that await our neighbors if they go back to Indonesia, but instead of doing all in its power to keep them safe, ICE is hastening their likely persecution," said the Rev. Seth Kaper-Dale, who has known the people in the suit for years through his ministerial work. "They need the chance to argue in court against their deportation, and they need more time."

New Jerseyans have shown vocal support for the affected community members. Hundreds of people packed a church and marched in Metuchen on Jan. 28 in support of the families and against the detention and deportation of their neighbors.

Pangemanan and his wife, Mariyana Sunarto, along with Sanger, Liem, and most of the other plaintiffs in the suit, have U.S. citizen children.

"Our Constitution and laws recognize that people must not be jailed or deported without an opportunity to seek court review of these harsh actions," said ACLU-NJ Senior Staff Attorney Farrin Anello. "Nowhere is this right more important than in the government's decision to send people

to a country where their lives would be in danger."

Other courts have recognized that the fundamental protections of due process apply to noncitizens, including in similar ACLU cases heard recently in Detroit, Miami, and Los Angeles. A federal court in Boston on Feb. 14, a day before the New Jersey suit, ordered the government to halt the removal of Indonesian Christians as the result of ACLU litigation. **ACLU**



Harry Pangemanan, a community leader who helped rebuild more than 200 homes destroyed by Superstorm Sandy, took refuge in the Reformed Church of Highland Park in late January.

At Long Last, Family Planning Funds Restored

AFTER 8 YEARS OF CONSECUTIVE VETOES, FAMILY PLANNING FUNDS ARE FINALLY RESTORED

The Legislature and Governor Phil Murphy righted a longstanding wrong on Feb. 21, with the signing of two key bills into law: one appropriating \$7.45 million toward family planning services and another expanding the threshold to receive family planning services under Medicaid.

Former Governor Chris Christie had issued a line-item veto axing the \$7.45 million funding every year of his governorship, with harmful consequences to women, men, children, and families across the state. He also eliminated the expanded Medicaid funding for families. The Assembly passed these two bills on Feb. 15, and the Senate approved them Feb. 1.

The ACLU-NJ advocated in Trenton and mobilized grassroots supporters throughout the Christie administration to call for the restoration of funding and Medicaid expansion.



The Feb. 21 passage of two key family planning bills allows more New Jerseyans to get healthy and stay healthy.

"The passage of these bills signifies a milestone for New Jersey: women's access to reproductive health care is recognized as an essential service, not trivialized as a political symbol," said ACLU-NJ Policy Counsel Dianna Houenou. "This is a proud moment, but even more, it's a moment that will make a concrete impact on people's health and save people's lives."

A1656 ensures that individuals with incomes up to 200 percent of the federal poverty level can receive Medicaid coverage for family planning services such as medical checkups, testing, cancer screening, and contraception.

A2134 reinstates a \$7.45 million appropriation for family planning services that was eliminated by former Gov. Christie first in 2010, and subsequently in every year of his gubernatorial tenure. The elimination of this funding resulted in the shuttering of family planning service providers, as well as a reduction in the availability of those services. **ACLU**

Parthiv Patel

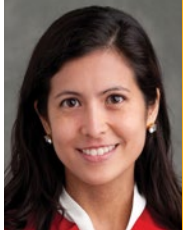
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"Parthiv's long wait for bar admission shows the type of obstacles that Dreamers are up against. At the same time, his determination and altruistic spirit in the face of uncertainty demonstrate the best that New Jersey and America have to offer," said ACLU-NJ Senior Supervising Attorney Alexander Shalom, who worked on advocacy related to Patel's case.

A 1996 federal statute prohibits states from conferring certain professional licenses on undocumented immigrants unless the state affirmatively opts out. Several states, including New York, Florida, and California, have granted law licenses to Dreamers. Until the DACA program, these young men and women had no path available to apply for authorization to live and work in the United States.

"No one should face barriers to serving the greater good because of where they were born," said Amol Sinha, executive director of the ACLU-NJ. "Parthiv is a son of New Jersey, and his story fits squarely in the American Dream." **ACLU**

OP-ED BY TESS BORDEN, ACLU-NJ STAFF ATTORNEY



Getting ‘The New Jim Crow’ Unbanned Behind Bars

TWO NJ PRISONS BANNED MICHELLE ALEXANDER’S EXAMINATION OF MASS INCARCERATION AND RACIAL INJUSTICE. HOURS AFTER AN ACLU-NJ LETTER, THE BAN WAS LIFTED.

Michelle Alexander dedicates her book *The New Jim Crow* to the people who have been swept up by America’s racist criminal justice system. “You may be locked up or locked out of mainstream society, but you are not forgotten,” it reads.

Now, all prisoners across New Jersey can read her words.

The ACLU of New Jersey learned that *The New Jim Crow* was banned as a matter of official policy in at least two prisons: New Jersey State Prison and Southern State Correctional Facility. On January 8, we sent a letter to the Department of Corrections Commissioner telling him not only that the ban was unconstitutional as a violation of the First Amendment, but also that it was a deeply disturbing policy, especially since New Jersey has the worst racial disparities in incarceration in the entire country.

Hours after receiving our letter, the DOC announced it was lifting the ban. It further committed to review its policy and all current lists of banned materials for appropriate revision. We commend the DOC’s quick action, but even as we celebrate the return of *The New Jim Crow* to prison shelves, we must not be distracted from the work that remains to be done.

Lifting the ban in no way undoes the reality that made it so appalling in the first place. New Jersey still incarcerates its Black residents at a rate 12 times higher than its white residents, making New Jersey the most racially unjust incarcerator in the United States. Communities of color are still being targeted by the police. Families are being torn apart by incarceration. And tens of thousands of New Jerseyans are living with the collateral consequences of conviction, blocked from accessing the voting booth, jury service, public benefits, housing and employment opportunities, and literally thousands of other rights and benefits.

In our letter, we asked for corrective action and a response from the DOC by January 24. We’re pleased the DOC didn’t need that long. But New Jersey policymakers should take this as a call to engage in a long-term, broad effort toward decarceration, with a goal of ending racial discrimination in the criminal justice system.

In December, the ACLU-NJ released “A Vision to End Mass Incarceration in New Jersey,” a roadmap for criminal justice reform in our state. We proposed concrete steps in a number of areas — from reducing the number of people entering jails and prisons to reforming the culture of prosecutors’ offices and rethinking release. These steps could reduce the number of people in New Jersey jails and prisons by 19,750 people, or more than half. We believe this would ultimately make the system more racially just.

New Jersey has already shown it can be a leader, not only in racial disparities, but in meaningful criminal justice reform. Last January, New Jersey effectively eliminated money bail, creating a presumption of release for the vast majority of defendants and ensuring that people don’t languish in jail awaiting trial simply because they are poor.

One year in, bail reform is a success. By October, county jail populations had dropped by 17 percent. Crime rates are largely the same, if not lower. People who would have risked losing their jobs for missing work because they couldn’t make bail are now able to resume their lives.

In one case, Tyler, an automotive technician in Eatontown, got into an argument that escalated, and he was charged with assault. Under New Jersey’s old system, his bail would have exceeded \$100,000. Instead, because he was released pending the resolution of his case — probation, no jail time — his livelihood was not in jeopardy. Watch a video about his story: www.aclu-nj.org/bailvideo

In the new year, the ACLU-NJ has continued working toward policies to tackle mass incarceration and lessen our shameful racial disparities. These policy goals include legalizing marijuana, ending the routine use of solitary confinement, and putting in place more humane conditions of parole, among many others.

The ACLU-NJ firmly believes that decarceration efforts cannot be successful unless they also address systemic racism. *The New Jim Crow* is a masterwork on confronting the racism of mass incarceration. Rather than being banned, the book should be recommended reading for all state officials — and all New Jerseyans. **ACLU**



After learning that Michelle Alexander’s seminal book was banned in at least two New Jersey prisons, the ACLU-NJ told the Department of Corrections that the ban was not only unconstitutional but also a deeply disturbing policy in light of New Jersey’s record racial disparities in incarceration.

Mass Incarceration

Continued from page 1

The vision, authored collaboratively by more than a dozen ACLU-NJ staff members over the course of more than a year, lays out a plan for dramatically reducing the incarcerated population, from stopping unnecessary encounters with police by decriminalizing low-level offenses to removing barriers that have made parole harder to attain. Some, like strengthening bail reform, make intuitive sense; others, like increasing the minimum wage, take a holistic approach.

New Jersey has a record of instituting pioneering criminal justice reforms. Jan. 1 marked the one-year anniversary of our state’s historic pretrial justice reform, which largely ended money bail. Dec. 17 marked the 10-year anniversary our state’s abolition of the death penalty. While New Jersey has seen recent declines in its incarcerated population, our state’s prison population has increased 278 percent from 1975 to 2015.

The ACLU-NJ is working with Newark’s Aljira gallery to stem mass incarceration through the exhibit “Duron Jackson: The Missing,” which captures the human toll communities face as a result of disproportionately criminalizing people of color, especially young Black men.

“The only way to close the Pandora’s box opened by ‘tough-on-crime’ policies is to reject the mindset at the heart of them, which has failed in deterring crime and in bringing about justice” said ACLU-NJ Deputy Legal Director Jeanne LoCicero. “That means reconsidering what we consider a crime, rethinking how severely a person should be punished, and enabling people to build meaningful lives after prison.”

The national ACLU’s Campaign for Smart Justice plans to release blueprints for decreasing the prison populations of all 50 states, including a blueprint for New Jersey in 2018.

Read the mass incarceration vision online: www.aclu-nj.org/massincarcerationvision **ACLU**

TRIBUTES

- In honor of Farrin Anello & Bob Kopp**
Edward & Susan Apuzzo, Robert Sherrell, Jiacan Yuan
- In memory of Larry Ascher**
Seidler Broekman & Blair Jennifer
- In honor of Frank Askin**
Jerald Baranoff
- In honor of the badass residents of Metuchen**
Todd Pagel
- In memory of Samuel Haskell Baron, Ph.D.**
Jane Johnston
- In honor of Laurie Beacham**
Matthew Stern
- In memory of Puneet Bhandari**
Narendra Bhandari
- In honor of Ché Blackwood**
Amber Polivka
- In memory of Donna Bocco**
Ray & Linda DiGrazia
- In honor of Michael Bohn**
Ann Fox
- In memory William Buckman**
Frederic Gross
- In honor of Debra Burns & William P. Malloy**
Kathleen Bennett & Tom Malloy
- In memory of Rosemary Ciabattari**
Elyse Terk
- In honor of Kelli Comegys**
Julia Whall & Zachary Wolfman

- In honor of Greg Dell’Omo**
Nicholas Dell’Omo
- In honor of Joan & Peter Eilbott**
Lassus Wherley & Associates PC
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Rhonda & Susan Feldman
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- In honor of Elizabeth Freed**
Anne Gordon & David Watson
- In honor of Charlie Hoover**
Among Friends Lunch Group
- In honor of Jersey Cider Works**
Ian Cameron
- In honor of William Kay**
Joseph Wagner
- In memory of Edward Kessler**
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Maria Grieco-Cottrell
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- In memory of Pamela Mandel**
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- In memory of Carol Wild**
Ashley Steinhart, Susan Goodstadt-Levin
- In honor of Rabbi Mary Zamore & Terje Lande**
Catherine Colinvaux

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.



PROFILE: LIGHTS OF LIBERTY

Meet Jason Camilo, One of the ACLU-NJ's 2018 Lights of Liberty Honorees

Jason Camilo grew up hearing stories of his family's flight from Cuba. He didn't realize until much later that his family's experiences were the exception in immigration, not the norm.

His parents impressed upon him early the idea that anyone could come to the U.S. But since 1966, Cubans alone are entitled to a U.S. green card after one year of residency.

For Camilo, who began practicing immigration law in 2004 at his own firm immediately out of law school, fighting for people to stay in this country was a way to extend to others what America had promised him.

"I now understand how lucky I am to have parents who were able to do that," he said. "My parents raised me with a strong upbringing of protecting individual liberties and a deep appreciation for American democracy."

A graduate of Temple University Beasley School of Law, he's represented thousands of clients from dozens of countries, including nearly everywhere in South and Central America, most of Europe and Asia, and about half of the countries in Africa.

Since March 2017, he's worked with the ACLU of New Jersey in fighting for the release of Abdul, a man from Afghanistan who entered the country on a special visa for Afghan citizens who put their lives in danger by working for the U.S. Armed Forces. He first connected with the ACLU-NJ through his role in coordinating the deployment of lawyers to Newark Liberty International Airport following the Trump administration's first Muslim Ban in January 2017. When he learned of Abdul's detention, he stepped into action and filed paperwork to become Abdul's immigration attorney.

Abdul's detention, which began March 13, 2017, is unlike anything he's seen in immigration proceedings.

"Instead of helping him and giving him food, we put him in a jail cell. I've never seen someone who worked for the government be treated as badly as Abdul has," said Camilo. "But Abdul has dealt with his detention better than most, especially when he knows the stakes could include death, or worse."



Supporters, including Jason Camilo, rally for Abdul outside the federal building in Newark last April.

Because immigration law is fundamentally administrative, Camilo doesn't get to make arguments about civil rights and constitutional guarantees in court, despite large intersections that are "muted" in immigration law, as Jason describes it.

The ACLU has been more than willing to stand up to the Trump administration, and more people are recognizing the ACLU's work, he said.

"What's changed with Trump, more than anything else, is restricting immigrants' rights and taking away what they're entitled to," he said. "It's a process that started under the second Bush administration, but it's achieved new lows with the Trump administration's erosion of fundamental rights."

He's determined to fight back, and that passion to help people keeps him going. What also keeps him going is the knowledge that he's not engaging in this work alone — he has not just fellow advocates backing him up, but members of the public.

In April last year, dozens of people came out to the federal building in Newark to rally for the rights of Abdul, a man they had never seen, let alone met.

"I told the crowd at the rally that I would show pictures of the demonstration to Abdul so he would know people in America cared about him. He didn't understand the pictures at first, but once he understood their meaning, I could tell it really meant something to him," said Camilo.

The ACLU-NJ will honor Camilo with the Legal Leadership Award at the annual Lights of Liberty Awards Dinner on May 9. www.aclu-nj.org

CIVIL LIBERTIES REPORTER

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The Trump administration's assaults on civil liberties are far-ranging and devastating. But the fight is still on, and — as promised — we've taken the administration to court again and again. On May 9, hear ACLU President Susan Herman on how the ACLU is working to preserve our cherished civil rights and liberties.

Join Us

THE LIGHTS OF LIBERTY AWARDS DINNER

Wednesday, May 9, 2018

FEATURING

Remarks from Susan Herman, President of the National ACLU Board of Directors

Entertainment by the Newark Arts High School Jazz Band

HONOREES

Legal Leadership Award: Patterson Belknap Webb & Tyler

Legal Leadership Award: Jason Camilo

Torchbearer Award: Make the Road New Jersey

Cocktails at 6 p.m.

Dinner and Program at 7 p.m.

The Imperial Room at The Manor

111 Prospect Ave.

West Orange, NJ 07052

RSVP: 973-854-1735 or www.aclu-nj.org/events

"So long as we have enough people in this country willing to fight for their rights, we'll be called a democracy." — Roger N. Baldwin, ACLU founder

LIGHT THE TORCH OF LIBERTY

Help the ACLU of New Jersey build a safe and free future by investing in its mission. Defend liberty by making a tax deductible gift to the ACLU-NJ Foundation. For more information on the many ways to give, call us at 973-642-2086. Visit our website to make a gift today: www.aclu-nj.org/donate

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