Serving Justice

A History of the ACLU Advancing the Rights of Veterans, Servicemembers, and Their Families

ACLU

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Introduction

In 2009, after speaking at the U.S. Army War College, then American Civil Liberties Union (ACLU) President Susan N. Herman reflected on the caricatures of the ACLU as anti-military and the military as anti-ACLU. She said, "While it is certainly true that not every serviceperson would agree with the ACLU on all issues, our respective institutions have in common a profound respect for fundamental American values and an image of ourselves as responsible for promoting and protecting those values."[1]

Indeed, the ACLU has a long history of advancing the rights of veterans, servicemembers, and their families. In the 1940s, we challenged the injustice of the segregated draft. In the 1970s, our Veterans Education Project assisted thousands of World War II, Korean War, and Vietnam-era veterans in securing upgrades to their less than honorable discharges. At the same time, Ruth Bader Ginsburg, co-founder of the ACLU's Women's Rights Project, blazed the trail for gender equity in the military. And, more recently, as the Trump administrations have escalated attacks on the rights of servicemembers, we have pushed back — defending First Amendment protections, privacy rights, and the dignity of LGBTQ individuals in uniform.

Our commitment to the fundamental freedoms of veterans, servicemembers, and their families is unwavering. Military life in many ways can mirror civil society, often making explicit the segregation, discrimination, and other indignities of the time. By breaking down barriers in the military, we ensure that those who serve their country are treated fairly. And, in doing so, we challenge the assumptions that undergird similar forms of unfairness in civilian life as well.

What follows are highlights of some of the work of the ACLU — from our national office and state affiliates — over the years on behalf of veterans, servicemembers, and their families. The ACLU rarely did the work reported on alone. In many cases we had co-counsel or the work was part of a larger coalition effort. We include only the ACLU here for simplicity and because the report focuses on the ACLU's body of work at a time when the ACLU seeks to expand its work in this area.

Opening the Doors

In 2003, in a brief before the U.S. Supreme Court, former military leaders described the military as "one of the most integrated institutions in America," and went further to say that "[t]he modern military judgment is that full integration and other policies combating discrimination are essential to good order, combat readiness, and military effectiveness."[2] That wasn't always the position of military leadership in this country. Beginning in the 1940s, the ACLU engaged in litigation and advocacy to open the doors to the military academies, service, and leadership, ending policies that long excluded people based on race, sex, or LGBTQ identity status. As we see now, these struggles demand continued advocacy.

To Be Black in the Military

The ACLU has long fought racial discrimination in the military — challenging the segregated draft, representing servicemembers subjected to racist threats, and advocating for the continuance of race-conscious admissions policies at the military service academies. These legal battles have unfolded against the backdrop of systemic racial inequalities that continue to plague the military and civil society today. While formal segregation in the military officially ended in 1948,[3] informal segregation and disparities have persisted for decades. Even today, Black servicemembers remain underrepresented in the officer corps: In 2023, Black servicemembers accounted for 19.5% of active-duty enlisted members but only 9.2% of active-duty officers.[4]

Challenging the Segregated Draft

One of our earliest challenges to racial inequality in the military came in the early 1940s when we represented Winfred Lynn, a Black landscape gardener who contested the segregated draft during World War II. After being classified as "1-A" — eligible for military service — Lynn wrote to his draft board: "Please be informed that I am ready to serve in any unit of the armed forces of my country which is not segregated by race. Unless I am assured that I can serve in a mixed regiment and that I will not be compelled to serve in a unit undemocratically selected as a Negro group, I will refuse to report for induction."[5]

When Lynn received an induction order issued under the government's racially segregated quota system, which required specified numbers of Black and white draftees each month, he refused to report for service and was charged with draft evasion. Several months later, he entered the Army, having been advised that that would be the best way to challenge the discriminatory quota. With the assistance

of his brother, a lawyer, Lynn filed a writ of habeas corpus against his commanding officer, challenging his induction. The district court dismissed his petition.[6]

On appeal before the U.S. Court of Appeals for the Second Circuit, ACLU General Counsel Arthur Garfield Hays argued that Lynn's induction "as a member of a Negro quota" violated the Selective Training and Service Act of 1940, which prohibited discrimination against any person on account of race or color.[7] Hays asserted: "It is a man's right to be called in his turn and not as a white or black man to fill a quota."[8] The Second Circuit ruled against Lynn — upholding the legality of race-based quotas — and the Supreme Court declined to hear the case on the grounds that it was moot: Lynn, having been deployed, was no longer in the custody of the same commanding officer.[9]

The case marked the first time the U.S. Supreme Court was asked to consider racial segregation imposed directly by the federal government; it helped lay the groundwork for change.[10] In 1948, President Truman ended explicit racial segregation in the military.[11]

More than a half century later, in 2011, the ACLU of New Mexico filed a complaint with the Office for Civil Rights on behalf of Specialist (SPC) Adam Jarrell, the only African American in his unit of roughly 216 soldiers in the New Mexico Army National Guard (NMANG).[12] SPC Jarrell faced a "pervasive and alarming" pattern of discrimination during his deployment to Afghanistan — including a noose hung outside his barrack, racial slurs, and threats of physical assault.[13] We urged the Office for Civil Rights to investigate and hold the NMANG accountable,

> "Discriminating against SPC Jarrell because of his race is not just illegal; it is wrong and it goes against everything we stand for as Americans."
>
> **— ACLU of New Mexico Letter to Office of Civil Rights**

arguing that the unit's failure to meaningfully address Jarrell's reports effectively facilitated and fostered the discrimination.

The experiences of Black servicemembers like SPC Jarrell underscore the urgent need for diverse and culturally competent military leadership. In interviews with the ACLU, Black women veterans emphasized that diversity not only boosts morale and unit cohesion but also ensures fairness in areas ranging from uniform standards to disciplinary proceedings.[14]

> "When I first came into the military, there was no one that looked like me in a lot of the rooms that I entered. When you don't see people in the room that represent you, you don't feel heard."
>
> **— Retired Chief Master Sgt. Flagg-Briggs**

In late 2023, we filed amicus briefs opposing lawsuits challenging affirmative action policies at West Point and at the Naval Academy. These cases came on the heels of the U.S. Supreme Court's June 2023 decision striking down the race-based admissions policies of most colleges and universities, while leaving an exception for military service academies "in light of the potentially distinct interests" they present.[15] In our briefs, we highlighted discrimination against Black, Asian, Latine, and Native servicemembers and emphasized their underrepresentation in officer ranks, noting that "the lack of representation in [military] leadership is a self-reinforcing problem that takes concerted effort to overcome."[16] In December 2024, the U.S. District Court for the District of Maryland upheld the constitutionality of the Naval Academy's race-conscious admissions program, recognizing the Academy's compelling national security interest in cultivating a diverse officer corps that "represents the country it protects and the people it leads."[17] Unfortunately, this hard-won victory was short-lived: In January 2025, following the decision in the Naval Academy case and while the West Point case was still in litigation, the Trump administration directed the military academies to end their consideration of race, ethnicity, and sex in admissions decisions.[18] The cases have since been dismissed.[19]

To Be a Woman in the Military

The history of women in the military is similarly marked by patterns of exclusion, resistance, and gradual but hard-won progress. From policies that forced women out due to pregnancy to the prohibition against women in combat roles, the military has constructed significant barriers to women's full participation and recognition. The ACLU has played a critical role in driving the decades of legal challenges and advocacy necessary to confront and dismantle these structures.

Ruth Bader Ginsburg's Early Arguments Challenging Sex Discrimination in the Military

As a founding director of the ACLU's Women's Rights Project, Ruth Bader Ginsburg played a transformative role in fighting for the equal protection of women. Through her persistent efforts, Ginsburg's arguments helped open the doors for future generations of women to serve and lead with greater opportunity — though full equality within the armed forces remains an unfinished project.

Ruth Bader Ginsburg in 1977, photographed by Lynn Gilbert.

In 1972, Ginsburg took on the case of Captain Susan Struck, a pregnant Air Force officer stationed in Vietnam. Struck sued the Air Force after it gave her an ultimatum: Have an abortion or be discharged. Ginsburg argued that discriminating against a woman based on pregnancy constituted sex discrimination under the Equal Protection Clause.[20] "No other

physical condition occasioning a period of temporary disability, whether affecting a man or a woman, is similarly treated," she wrote, adding that "regulations applicable to pregnancy more onerous than regulations applicable to other temporary conditions discriminate invidiously on the basis of sex."[21] Before the U.S. Supreme Court could hear the case, the Air Force changed its policy and waived Struck's discharge.

That same year, Ginsburg submitted an amicus brief to the U.S. Supreme Court on behalf of Sharron Frontiero, an Air Force lieutenant barred from claiming her husband as a dependent to obtain increased allowances and benefits. At the time, servicemen could claim their wives as dependents regardless of actual financial dependency, but servicewomen could only claim their husbands if they could prove their husbands relied on them for over half their support. As in *Struck v. Secretary of Defense*, Ginsburg argued that this sex-based classification violated the Equal Protection Clause,[22] and the Supreme Court agreed.[23]

Exclusion and Underrepresentation

Building on these successes, the ACLU continued to fight systemic barriers that kept women out of historically men-only military institutions — a fight that remains deeply relevant today. In 1977, we challenged a federal statute that barred women from serving aboard naval ships. The court found the prohibition unconstitutional, holding that it violated the equal protection guarantee.[24] Following this result, Congress amended the statute in 1978 to permit women to be assigned to duty on ships, but continued to restrict their service on vessels engaged in combat missions — foreshadowing battles still to come.[25]

Continuing this momentum, we filed a complaint in federal court challenging the Army's unequal enlistment standards. At the time, women were required to have a high school diploma (or equivalent) and score at least 50 on a qualification test, while men could enlist without a diploma and with a score as low as 19. In 1979, following our complaint, the Army announced that it would equalize entry requirements for men and women.[26]

Years later, we took on one of the most entrenched symbols of gender exclusion in the military: The Citadel, a state-supported, men-only military college in South Carolina. We represented Shannon Faulkner, a high school student denied admission solely because of her gender. In a significant victory, the U.S. Court of Appeals for the Fourth Circuit ruled that The Citadel's refusal to admit women violated the Equal Protection Clause, requiring the institution to either admit Faulkner or create an equivalent alternative for women.[27]

For a variety of reasons, including lack of supportive structures for women, recruitment failures, and disinterest, women continue to be underrepresented at military educational institutions. In 2023, women made up only about 15% of the student population at The Citadel, and rates were similarly low at West Point (22%), the Naval Academy (30%), and the Air Force Academy (29%).[28]

In some of our most recent cases on behalf of servicewomen, we challenged the Department of Defense's (DoD) policies relating to the exclusion of women from direct ground combat positions. In 2012, we sued on behalf of the Service Women's Action Network (SWAN) and four servicewomen, including recipients of some of the military's highest honors, who wanted to serve in combat but were barred from doing so because of the military's longstanding combat exclusion policy.[29] Despite serving with

> "Men do not have a monopoly on patriotism, physical ability, desire for adventure, or willingness to risk their lives. Until both the responsibilities and the rights of citizenship are shared on a gender-neutral basis, women will continue to be considered less than full-fledged citizens."
>
> **— ACLU Testimony to Congress**

distinction, these women were denied access to the career advancement and leadership pathways that flow from combat assignments. Following our lawsuit, in 2015, the DoD announced that all military combat positions, units, and schools would officially be open to women.[30] In August 2015, two Army captains made history as the first women to graduate from Ranger School.[31]

Despite these victories, our work remains unfinished. In 2017, the ACLU filed an amended complaint in the combat ban case to challenge the so-called "Leaders First" policy adopted by the Army and Marine Corps that needlessly delayed women's integration into combat battalions despite the official end to the combat ban years earlier.[32] After sustained litigation and advocacy, the Army ended this policy in 2023.[33]

In a separate effort to challenge ongoing gender-based distinctions, we filed a petition for certiorari in 2021 urging the U.S. Supreme Court to strike down men-only registration for the Selective Service. We argued that requiring only men to register for the draft perpetuates outdated assumptions about women's capabilities.[34] Though we earned a statement from three Justices casting doubt on the constitutionality of men-only registration, the Supreme Court denied the petition and deferred to Congress on the issue despite decades of congressional inaction.[35] Nonetheless, our efforts spotlighted one of the last remaining explicit gender-based classifications in federal law — one that continues to shape public perceptions about women, men, and service.

Pregnancy and Reproductive Health

Following the landmark equal protection cases spearheaded by Ginsburg in the 1970s, the ACLU continued to challenge discriminatory military policies related to pregnancy. Around the same time as *Struck*, we brought a successful challenge in the U.S. Court of Appeals for the Second Circuit to a Marine Corps policy mandating discharge for pregnancy,[36] but lost a similar challenge to an Air Force regulation in the U.S. District Court for the District of Columbia.[37] These legal battles helped catalyze change: In 1974, the DoD directed the Services to make separations for pregnancy voluntary beginning the following year.[38] Yet discriminatory practices persisted for decades. It was not until 2009 — following our advocacy — that the New York National Guard rescinded its policy requiring women in active-duty positions to take periodic pregnancy tests and sign an agreement that becoming pregnant would terminate their assignments and health benefits.[39]

In parallel to our litigation to end pregnancy discrimination, we launched legislative campaigns to improve access to reproductive healthcare. In 2006, we advocated alongside women in the military, medical professionals, and women's health advocates for an amendment to the National

Defense Authorization Act (NDAA) to ensure that emergency contraception would be available at all military health facilities.[40] While it took many years, the DoD changed its policy in 2010, requiring that emergency contraception be available at all military facilities, including those overseas.[41] Building on that success, in 2011, in coalition with women's health advocates, we succeeded in getting Congress to amend the NDAA to allow military insurance to cover abortion care in cases of rape or incest.[42] Prior to the amendment, servicewomen who became pregnant as a result of rape or incest were required to pay out of pocket for this abortion care, even though DoD insurance policies for civilians included such coverage.

Our efforts to improve access to reproductive health services take place against a deeply troubling backdrop: Women in the military face high rates of sexual violence. A study from Brown University estimated that on average, from 2001 to 2021, 24% of active-duty women and 1.9% of active-duty men experienced sexual assault.[43]

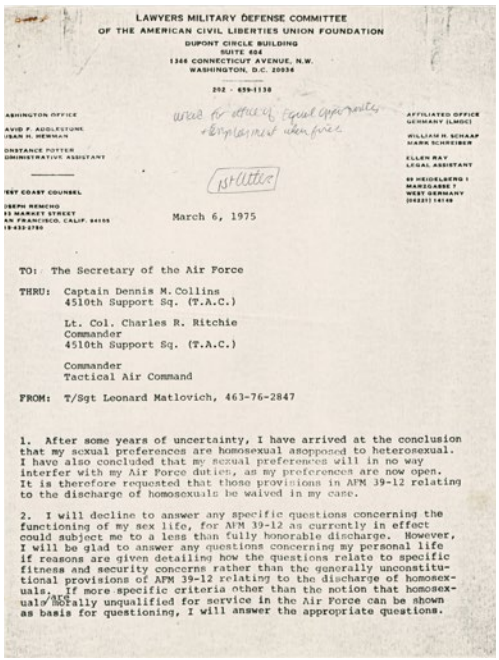
In 2010, the ACLU and SWAN sued the DoD and the Department of Veterans Affairs (VA) for failing to promptly release records relating to military sexual trauma (MST) under the Freedom of Information Act (FOIA).[44] This lawsuit was a crucial step in demanding accountability. As a result of documents obtained through a settlement in this case, we issued a report shedding light on the continuing harm of MST on women veterans: The VA granted disability benefit claims for post-traumatic stress disorder (PTSD) related to MST at a significantly lower rate than claims for PTSD unrelated to MST every year from 2008 to 2012. This disproportionally harms women veterans, whose PTSD claims are more often based on MST than men veterans' claims.[45]

Building on our efforts to address MST, the ACLU filed an amicus brief in 2016 in support of Jane Doe, a former cadet at West Point who alleged she was sexually assaulted by an upperclassman. Doe brought constitutional claims against the Superintendent of West Point and Commandant of Cadets for "creating the policies and customs that caused or permitted the violation of [her] equal protection right to an education free from sex discrimination."[46] We argued that the *Feres* doctrine, which bars servicemembers from suing the federal government for injuries sustained incident to service, should not categorically prevent a cadet's constitutional claims against a military academy.[47] The U.S. Court of Appeals for the Second Circuit disagreed, dismissing Doe's claim and ruling that servicemembers cannot seek monetary damages for injuries arising out of their service — further narrowing avenues of redress for survivors of MST.[48]

In recent years, we have also taken on discrimination against parents in military academies — a form of discrimination rooted in gender bias that disproportionately impacts women. In 2021, together with Yale Law School's Veterans Legal Services Clinic, we represented Isaak Olson, a cadet expelled from the U.S. Coast Guard Academy for becoming a parent. At the time, the Coast Guard Academy required cadets to be disenrolled if they had "any maternal or paternal obligation"; the policy provided that "[p]regnancy past fourteen (14) weeks will be considered an obligation and will be applicable to both prospective parents."[49] We negotiated a settlement under which Olson received his degree and was issued a statement explaining the reason for his disenrollment.[50] That same year, Congress directed the DoD to change its policy to allow students at most service academies to retain their parental rights — though, notably, this directive did not extend to the Coast Guard Academy, which is overseen by the Department of Homeland Security.[51]

To Be LGBTQ in the Military

Our fight for gender equality in the military paved the way for our efforts on behalf of the LGBTQ community. In the 1970s, we served on the legal team representing Leonard Matlovich, a decorated Air Force sergeant who made national headlines when he declared in a letter to the Secretary of the Air Force: "My sexual preferences are homosexual as opposed to heterosexual."[52] At his discharge hearing, we argued that his ability to serve had not been compromised by his sexual orientation.[53] Nevertheless, the board found him unfit for service and recommended his discharge. This decision prompted a high-profile legal battle in federal court that became a landmark moment in the fight for gay rights in the military — and helped lay the groundwork for future challenges to discriminatory policies.[54]



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March 6, 1975

TO: The Secretary of the Air Force

THRU: Captain Dennis M. Collins
4510th Support Sq. (T.A.C.)

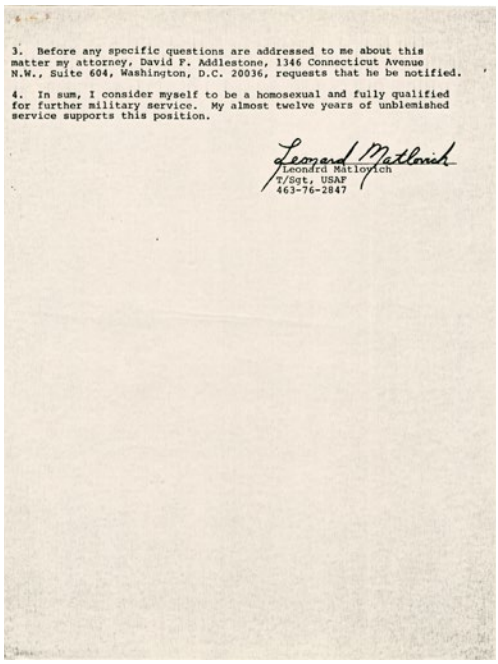
Lt. Col. Charles R. Ritchie
Commander
4510th Support Sq. (T.A.C.)

Commander
Tactical Air Command

FROM: T/Sgt Leonard Matlovich, 463-76-2847

1. After some years of uncertainty, I have arrived at the conclusion that my sexual preferences are homosexual as opposed to heterosexual. I have also concluded that my sexual preferences will in no way interfer with my Air Force duties, as my preferences are now open. It is therefore requested that those provisions in AFM 39-12 relating to the discharge of homosexuals be waived in my case.

2. I will decline to answer any specific questions concerning the functioning of my sex life, for AFM 39-12 as currently in effect could subject me to a less than fully honorable discharge. However, I will be glad to answer any questions concerning my personal life if reasons are given detailing how the questions relate to specific fitness and security concerns rather than the generally unconstitutional provisions of AFM 39-12 relating to the discharge of homosexuals. If more specific criteria other than the notion that homosexuals are totally unqualified for service in the Air Force can be shown as basis for questioning, I will answer the appropriate questions.



3. Before any specific questions are addressed to me about this matter my attorney, David F. Addlestone, 1346 Connecticut Avenue N.W., Suite 604, Washington, D.C. 20036, requests that he be notified.

4. In sum, I consider myself to be a homosexual and fully qualified for further military service. My almost twelve years of unblemished service supports this position.

Leonard Matlovich
Leonard Matlovich
T/Sgt, USAF
463-76-2847

Our efforts continued in the following decades. In *Able v. United States*, we represented six servicemembers in their challenge to an NDAA provision embodying "Don't Ask, Don't Tell" (DADT).[55] Although the challenge was ultimately unsuccessful in court, the case helped elevate national attention for the deep personal and professional toll the policy imposed on lesbian, gay, and bisexual members of the armed forces.

In 2006, we filed a lawsuit on behalf of Major Margaret Witt, a decorated Air Force nurse who was suspended

> "When I put on my uniform and go to work, I'm simply doing what small part I can to protect this country I love so dearly. I work alongside men and women I trust with my life. It has never once crossed my mind that if the airman next to me is gay I should put any less faith in his ability to do the job."
>
> **— Kristoffer Berrien, U.S. Air Force, 2010**

because of her relationship with a woman. In a major decision, the U.S. Court of Appeals for the Ninth Circuit ruled that the Air Force could not justify Major Witt's dismissal simply by citing DADT; instead, the court ruled, the Air Force must provide specific, individualized evidence that a servicemember's removal under DADT actually furthers a military interest, such as unit cohesion — a standard that became known as the "Witt Standard."[56] The *Witt* case raised the legal bar for the government and helped erode the foundation of DADT in the years leading to its repeal.

While several lawsuits challenging DADT were pending, we filed a 2010 class action lawsuit on behalf of gay servicemembers who had their separation pay unfairly cut in half due to their sexual orientation.[57] About a month later, Congress enacted legislation repealing DADT, ending an 18-year policy that forced gay servicemembers to serve in silence or risk losing their careers.[58] In a 2013 settlement, the government agreed to pay full separation pay to our clients.[59]

But our work did not stop with the repeal. As the national conversation expanded to include the rights of transgender individuals in the military, we took action again. In *Stone v. Trump*, filed in 2017, we challenged a policy issued by the first Trump administration banning transgender people from serving in the military. Representing six transgender servicemembers, we argued that the ban violated the Fifth Amendment's guarantees of equal protection and substantive due process.[60] Though the Biden administration rescinded the ban in 2021 while the litigation was ongoing, this progress was short lived. In 2025, the second Trump administration reinstated the ban, underscoring the continued urgency of efforts to protect transgender rights.[61] The injustice of the ban is especially stark in light of the enduring contributions of transgender servicemembers: Research indicates that about one-fifth of all transgender adults are veterans, making transgender people about twice as likely as others to have served.[62]

In parallel to these efforts, we have fought for access to gender-affirming care for servicemembers and their families. In 2014, we filed a complaint on behalf of Chelsea Manning, a transgender servicewoman and whistleblower incarcerated at a men's military prison, demanding access to medically necessary care and the ability to live according to her gender identity.[63] After a sustained advocacy campaign led by major LGBTQ groups, the Obama administration commuted Manning's sentence in January 2017.[64] More recently, we launched a campaign urging Congress to reject a provision in the NDAA that would ban military insurance coverage for gender-affirming care for transgender children of servicemembers.[65] Despite our advocacy alongside other organizations, the measure was enacted into law in December 2024, making it the first anti-LGBTQ legislation passed by Congress in nearly 30 years.[66]

Securing Citizenship and Voting Rights for Those Who Serve

Pathways to Citizenship and Protections from Deportation

The ACLU has long championed the rights of non-citizen servicemembers and veterans, fighting to protect their access to citizenship, shield them from deportation, and bring deported veterans back to the United States. These initiatives have grown increasingly urgent in recent years as immigrant communities have faced escalating threats.

Immigrants have served in the United States military since the founding of the Republic.[67] The military has relied upon non-citizens to meet its recruitment and readiness goals — as of February 2024, more than 40,000 foreign nationals were serving in the military.[68] Going back more than 200 years, Congress began incentivizing non-citizens to join the military by rewarding them with an expedited path to citizenship.[69]

The longstanding role that non-citizens have played in the military and the promise of expedited citizenship for those who serve during wartime came under direct attack in 2017, when the first Trump administration enacted policies to prevent non-citizens from enlisting in the military and from obtaining their earned citizenship once they did. The result was devastating: a decrease in enlistment and a 72% reduction in applications for naturalization by non-citizen servicemembers the following year.[70]

In response, in 2018, the ACLU of California filed a class action challenging the Trump administration's enlistment policy, which ultimately led to the administration changing its policy and eliminating the restrictions.[71] Then, in 2020, we filed another class action lawsuit arguing that the Trump policy unlawfully undermined the expedited pathway to citizenship Congress created for immigrant servicemembers.[72] The district court agreed with our argument, and the Trump administration appealed. In June 2021, the Biden administration formally rescinded the policy but continued the Trump-era's appeal on the ground that it was still considering whether to impose a time-in-service requirement. In May 2025, the U.S. Court of Appeals for the D.C. Circuit held that the case was moot in light of the policy's recission and vacated the district court's judgment.[73]

These fights reflect a wider problem: For nearly 30 years, the United States government has deported veterans because deportation laws make no exception for those who have served. When deported veterans in Tijuana began advocating for an end to the deportation of veterans and their repatriation to the United States, the ACLU of California, in 2015, joined their call, providing legal support and advocacy that helped to build a movement led by deported veterans themselves.[74] Through the combined power of policy and legislative advocacy, veteran-led organizing, and substantial legal services, the ACLU of California supported and fueled a movement that has grown in size and scope. As of 2025, this work has led to the lawful repatriation of at least 175 deported veterans; the introduction of numerous bills in Congress;

the creation of a dedicated unit at the Department of Homeland Security and the VA devoted to repatriating and supporting non-citizen veterans, including those who have been deported; state pardons for veterans; and opportunities for deported veterans to meet with President Biden and members of Congress, among other outcomes.[75]

Our efforts on behalf of non-citizen servicemembers are grounded not only in law, but in widespread public support. A 2023 ACLU poll revealed overwhelming bipartisan agreement that non-citizen servicemembers should be protected from deportation and afforded fair access to U.S. citizenship.[76] Our work in this space reaffirms a fundamental principle: Citizenship should be accessible to all, regardless of birthplace.

> "The promise of citizenship Congress made to non-citizen service members is not just an important recruitment tool. It is a moral imperative embedded in our history, values, and laws. If you are willing to make the ultimate sacrifice for America, you are — and should be — entitled to be an American."
>
> **— Scarlet Kim and Noor Zafar of the ACLU's National Security Project**

Voting

Alongside our advocacy for non-citizen servicemembers, we have worked to protect one of the most fundamental civil rights for citizen servicemembers and their families: the right to vote.

> "If I can serve my country, I should be able to vote for who runs it. Veterans and others who do not have a certain type of photo ID should not be kept from voting. These laws are undemocratic and un-American."
>
> **— Carl Ellis, Army veteran**

In 2011, we filed a lawsuit challenging a Wisconsin law that required voters to present one of a narrow set of approved photo IDs — a requirement that functioned as an unconstitutional poll tax.[77] One of the plaintiffs, Carl Ellis, was an Army veteran whose only form of photo ID was his Veteran Identification Card (VIC), which the state refused to accept. He lacked the financial means to obtain a certified copy of his birth certificate, which was necessary to prove citizenship and obtain a state ID. After years of litigation, the state legislature amended the statute to require election officials to accept VICs, prompting the court to dismiss that aspect of the case as moot,[78] and removing a discriminatory barrier that had suppressed the vote of veterans like Ellis.

More recently, during the 2024 election cycle, the ACLU of Pennsylvania responded to two systematic and organized attempts to undermine the voting

rights of Americans seeking to vote in Pennsylvania. One involved a challenge to Americans living overseas, many of whom were in the military.[79] The other challenged voters who changed their address to a different state, a large percentage of whom were people stationed at military bases and their spouses, who by law could continue voting in their home states.[80] The coordinated challenges targeted thousands of mail ballot applications and were designed to suppress legitimate votes. We sent a letter to every county solicitor detailing our opposition to these challenges. We also notified affected voters — for many, this was their only notice — and encouraged them to submit written statements to their county's Board of Elections affirming their personal ties to Pennsylvania.[81] Many voters responded with outrage, providing written and remote testimony defending their voting rights. Ultimately, in every county except one where challenges were filed, either the Boards unanimously voted to reject them or the challengers withdrew their objections before a decision was reached.[82] In the one county where the challengers lost and appealed, we intervened to successfully defend the decision allowing voters to cast mail ballots.[83]

Similarly, in ongoing litigation in Michigan, the ACLU of Michigan filed an amicus brief on behalf of military families opposing partisan efforts to disenfranchise citizen spouses and children of military personnel and other overseas Michiganders — individuals who, under longstanding state law, retained voting rights so long as they had not cast a ballot elsewhere.[84] We warned that stripping these individuals of their voting rights would disproportionately harm military families, many of whom are stationed abroad and rely on such legal protections to exercise their civic voice.

Protecting the First Amendment Rights of Servicemembers

Freedom of Speech

The ACLU has demonstrated a longstanding commitment to defending servicemembers' freedom of speech, maintaining that servicemembers should retain the full protections of the Constitution they have sworn to defend. Too often, however, courts have deferred to the military's assertion that disciplinary control requires curtailing core constitutional rights.

One of the most significant examples came in the 1974 U.S. Supreme Court case *Parker v. Levy*. Charles Morgan, legendary founder of the ACLU's Southern Regional Office, represented Howard Levy, an Army physician who had been convicted by a military court for refusing to train Green Beret medics and publicly criticizing the Vietnam War. Morgan argued that Levy's statements were protected by the First Amendment and that the military regulations used against Levy were unconstitutionally vague. The Supreme Court rejected this position, upholding Levy's conviction and ruling that the military is a "specialized society separate from civilian society" where certain speech restrictions are permissible to promote obedience and discipline.[85]

Since then, we have opposed a wide range of government actions aimed at restricting or punishing speech. One such effort was our involvement in *Rosebrock v. Beiter*, a 2010 case brought on behalf of a Vietnam War veteran who displayed American flags upside down to protest the VA's failure to use its property for the benefit of veterans — in particular, homeless veterans. We argued that the VA violated the First Amendment by selectively enforcing a regulation prohibiting the posting of materials on its property: Officials removed only the inverted flags while allowing flags flown upright. The district court agreed but denied our request for injunctive relief and the court of appeals affirmed, with the VA committing to consistently enforce the regulation.[86]

We have also challenged the DoD's treatment of disfavored speakers and narratives. A few years after advocating for Chelsea Manning's access to medically necessary treatment, we filed an amicus brief in *United States v. Manning* that raised constitutional concerns about the government's ability under the Espionage Act to engage in discriminatory prosecutions — targeting individuals like Manning for disclosing information that contradicts favored narratives, while shielding disclosures that align with preferred messaging.[87] Our advocacy in this area has also extended to legislative reform: In 2016, we joined a coalition of organizations concerned with public integrity and accountability in successfully urging Congress to enhance protections for military whistleblowers.[88]

In addition to these efforts, in 2019, the ACLU and the Knight First Amendment Institute at Columbia University sued the DoD and other government agencies challenging the prepublication review system — a form of prior restraint that requires veterans and other former national security employees to obtain government approval before

speaking or writing about their service. One of our clients was Anuradha Bhagwati, a former Marine Corps officer who authored a memoir exposing misogyny, racism, and sexual violence within the Corps. We argued that prepublication review suppresses core political speech and enables the government to control public discourse on military and national security issues.[89] The U.S. Court of Appeals for the Fourth Circuit upheld the system's constitutionality, allowing this opaque process to remain in place.[90]

Book Bans at Military Schools

In one of our most recent efforts to defend free speech within the military community, the ACLU filed a lawsuit on behalf of students at Department of Defense Education Activity (DoDEA) schools on military bases.[91] Following the Trump administration's executive orders directing the DoD to eliminate content related to race and gender, DoDEA schools censored hundreds of books and made other sweeping curricular changes. Schools were instructed that "all planned special activities and non-instructional events related to the former monthly cultural awareness observances will not be held pending further guidance," leading administrators to cancel celebrations for Black History Month and Asian American and Pacific Islander Heritage Month.[92] Book removals included those that mention slavery and the treatment of Native Americans.[93] In total, DoDEA reported removing 555 books and 41 curricular materials, including books like "Freckleface Strawberry" by Julianne Moore, "To Kill a Mockingbird" by Harper Lee, and "Julián Is a Mermaid" by Jessica Love; chapters from AP Psychology books; and various sex education resources.[94]

The ACLU challenged these actions as unconstitutional, arguing that they violate students' First Amendment right to receive information. By censoring critical content relating to American history, the DoD is compromising the quality and integrity of education provided to military families and denying students the right to receive a holistic education.

Religious Expression

In parallel to our defense of free speech, the ACLU has long fought for the right of servicemembers to freely exercise their religion. As with our advocacy for Black, women, and LGBTQ servicemembers, our efforts on behalf of religious minorities have helped remove barriers that discourage full participation in military life.

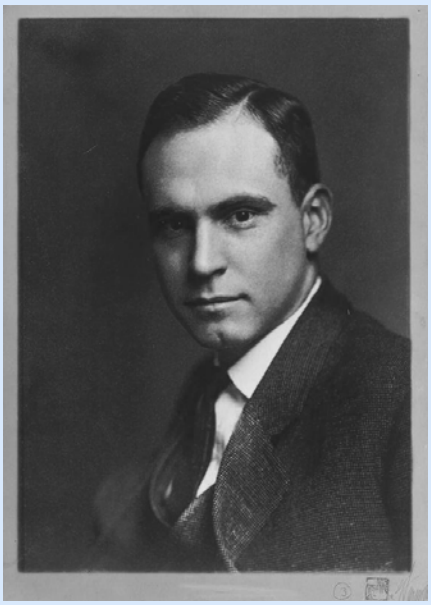
A landmark moment in the ACLU's advocacy for religious freedom came with the 2014 case *Singh v. McHugh*. We represented Iknoor Singh, a Sikh student at Hofstra University who was denied enrollment in Army ROTC because he refused to cut his hair and beard and wore a turban in accordance with his faith. We sued the Army under the Religious Freedom Restoration Act, and the district court ruled in Singh's favor, finding that the Army's refusal to grant a religious accommodation could not withstand strict scrutiny.[95] Since then, we have secured similar victories for servicemembers seeking to maintain their articles of faith, including a Muslim woman who became the first Air Force Judge Advocate General's Corps officer authorized to wear a hijab while serving,[96] and our Eastern Orthodox client who received a religious accommodation from the Air Force to wear his unshorn beard.[97]

We have also opposed compulsory religious services for military members and fought to expand the range of religions officially recognized by the military. In 2007, we secured a significant settlement with the VA allowing Wiccan symbols to be displayed on the headstones of deceased veterans — an important affirmation of religious liberty for minority faiths.[98] The following year, we urged the U.S. Naval Academy to end its practice requiring all midshipmen to stand in attendance at a daily noon meal prayer, citing concerns about coerced religious observance; the Academy, however, refused to make the change.[99] And in 2014, after we sent a letter to the DoD on behalf of a major in the Army, the Army agreed to add Humanism — a non-theistic, progressive set of beliefs — to its list of approved religious-preference designations for servicemembers.[100]

Defending Conscientious Objectors

While the ACLU opposes involuntary military conscription for any person,[101] we have long fought to make existing processes for service less unfair. This includes advocating for individuals who, due to deeply held moral or religious convictions, cannot in good conscience participate in armed conflict. Reflecting our commitment to safeguarding freedoms of thought, belief, and expression, we have spent more than a century fighting to ensure that conscientious objectors are not only legally recognized but also granted meaningful protections and accommodations.

The ACLU's advocacy for conscientious objectors dates back to the organization's earliest days. Following the passage of the Selective Service Act of 1917, which established the draft, Roger Nash Baldwin — then head of the National Civil Liberties Bureau, the predecessor organization to the ACLU — began corresponding with the



Photograph of Roger N. Baldwin, 1911. Roger Nash Baldwin Papers. Reproduced courtesy of the Department of Rare Books and Special Collections, Princeton University Library.

War Department about the treatment of conscientious objectors.[102] Baldwin called for legal protections for conscientious objectors and proposed the establishment of noncombatant service alternatives for those whose moral or religious beliefs prevented them from participating in armed conflict.

Baldwin's correspondence with the War Department continued through much of 1918. That same year, he took a personal stance as a conscientious objector himself, refusing to register for the draft or accept any form of alternative service. In October, he was convicted for violating the Selective Service Act and sentenced to one year in jail. Following his release, Baldwin became a founding member of the ACLU, serving as executive director for 30 years.[103]

The ACLU's efforts for conscientious objectors continued for decades, including during the wars in Iraq and Afghanistan. In 2007, we filed a lawsuit on behalf of Calvin

Lee, a Buddhist-Taoist soldier and recent immigrant from Malaysia who enlisted in the Army based on a recruiter's assurances that he would never be sent to war, only to learn that his unit was scheduled to deploy to Iraq.[104] That same year, we represented Army Captain Peter D. Brown, a West Point graduate who began to feel conflict between his faith and military service after spending time at a civilian religious education center.[105] A few years later, we filed a habeas petition on behalf of Michael Izbicki, a naval officer from a family with a long military tradition who came to believe after deep religious study that his Christian faith prohibited him from participation in war.[106] All three servicemembers were ultimately granted honorable discharges.[107]

Protecting Other Rights After Service

In addition to our work on behalf of servicemembers and their families, the ACLU has been steadfast in defending the rights of veterans. These efforts come against the backdrop of well-documented challenges many veterans face when transitioning back to civilian life — including homelessness, mental health struggles, and barriers to accessing adequate healthcare.[108]

Veterans Education Project[109]

In the early 1970s, concerned about the long-term consequences of less than honorable discharges, the ACLU began working to address inequities in the military's discharge system. At the time, the military was increasingly relying on administrative discharges to address disciplinary issues, bypassing the procedural safeguards of the court-martial system.[110] These discharges disproportionality affected racial minorities and often carried a stigma worse than a military conviction.[111]

In 1975, in response to growing demand from veterans seeking discharge upgrades — and new policies making such upgrades more feasible — we published the "ACLU Practice Manual on Military Discharge Upgrading."[112] This manual provided lawyers and veterans with tools to navigate the military's complex and opaque discharge review process. We estimated that 40-50% of veterans who received less than honorable discharges could be eligible for upgrades if given proper legal representation.[113]

In 1977, Congress passed legislation requiring the DoD to establish a program enabling review of less than honorable discharges.[114] As the program's December 1979 deadline approached, the ACLU's Veterans Education Project launched a national telephone hotline to connect veterans with assistance. In just the first two weeks, the line received more than 4,000 calls.[115]

Recognizing the broader legal and practical challenges veterans faced, we published "The Rights of Veterans" in 1978. This guide offered support on a range of issues, including applying for benefits, confronting employment discrimination, and accessing medical and mental healthcare.[116]

Building on our commitment to those who have served, in recent years we have continued to work to ensure that veterans receive the support services they need. In 2011, the ACLU of Southern California sued the VA on behalf of the Vietnam Veterans of America and four veterans living with PTSD or

other mental health conditions, challenging the VA's misuse of a Los Angeles campus originally deeded to serve as a home for disabled veterans. Instead of fulfilling that mission, the VA had leased the property to commercial entities, effectively denying critical support to veterans with severe mental disabilities.[117] As part of the 2015 settlement in this case, the VA agreed to develop a master plan to restore the campus for veteran-supporting purposes and implement strategies to address homelessness among the veteran community in Los Angeles.[118]

We have also fought to preserve access to justice for veterans. In two recent cases, we filed amicus briefs to challenge the VA's overly restrictive interpretation of the Veterans' Judicial Review Act (VJRA), a statute that outlines a process for veterans to appeal their individualized benefits decisions while limiting the role of the federal district courts. We opposed the VA's claim that the VJRA strips district courts of jurisdiction when a veteran seeks to challenge *any* decision the VA makes regarding benefits determinations, arguing that it does not deprive the courts of jurisdiction to consider facial constitutional challenges to legislation and policies affecting veterans' rights. The VA's contrary position, we argued, effectively creates a "jurisdictional no mans land" for veterans seeking to vindicate their constitutional rights in a facial challenge.[119] Although the VJRA was enacted in 1988, its interpretation is still not settled; resolution of these two cases is of great significance for veterans' rights.

The ACLU is also actively working to protect veterans' privacy rights. In April 2025, we filed a FOIA lawsuit demanding transparency around the Department of Government Efficiency's access to VA systems.[120] We raised serious concerns about this access, given the highly sensitive nature of the information stored by the VA — including veterans' medical records, mental health histories, and financial data. Through this lawsuit, we are demanding accountability to ensure that veterans' privacy rights are not compromised by the very institutions meant to support them.

Conclusion

For over a century, the ACLU has been a driving force in ensuring the rights and freedoms guaranteed by the Constitution extend to those who serve, or have served, in uniform. Yet, progress has been hard-won and remains far from complete. Women, LGBTQ servicemembers, religious and racial minorities, and non-citizens continue to face systemic barriers that undermine equality, dignity, and fairness both within the military and beyond it. Despite landmark victories, structural inequities persist — and in some cases, hard-earned gains have been rolled back. For as long as those who serve are subjected to unfair treatment, we will keep fighting — in the courts, in Congress, and in communities — to demand a military that truly reflects the democratic values it is sworn to defend and to ensure fair treatment of those who have served.

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