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# THE TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

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SAVE THE DATE!

**APRIL 26, 2008**  
**ACLU of NEW MEXICO**  
**ANNUAL MEMBERSHIP MEETING**  
10 to 12 PM  
801 University SE  
Albuquerque, NM  
This year's keynote is  
**CATHERINE CRUMP!**

CATHERINE CRUMP is a staff attorney at ACLU national, where she focuses on freedom of speech and privacy. She is counsel to a number of individuals who have been excluded from the president's speaking events because they disagreed with the president's policies, as well as others who have been forced to protest far away from the president because of their political viewpoints. She has also been involved in various challenges to Internet censorship and the NSA's warrantless surveillance program. See front-page article written by Crump »

The meeting this year will focus on ways in which law enforcement controls or prohibits the public's ability to express political opposition to the government, especially its current policies in the Iraq War. More broadly, we will address free speech and the right to dissent during the election campaign season.

Look for the details in the coming weeks and online:  
[www.aclu-nm.org](http://www.aclu-nm.org)

## Unconstitutional Acts to Protect the President from Protestors

*This piece originally appeared on HuffingtonPost.com on January 15, 2008.*

In the waning days of this administration's tenure, President Bush's lack of interest in opinions contrary to his own is as striking as ever. Most recently in New Mexico, a group of peaceful demonstrators was removed from the president's sight, continuing the administration's long-held tradition that dissenters should be neither seen nor heard. Sound undemocratic? Indeed.

Last August, President Bush attended an exclusive, high-priced fundraiser for New Mexico Senator Pete Domenici. Local activists opposed to the president's policies were, of course, not invited. To let the president know that not everyone agreed with him, they planned to stand along his motorcade route holding up signs expressing their views, especially their opposition to the war in Iraq.

The peaceful demonstrators' attempt at free speech was quickly squashed when police officers forced them to stay at least 150 yards away from the motorcade route, walling them off by placing numerous police cars and officers on horseback between the protesters and the president. Meanwhile, a group of Bush supporters was allowed to stand right along the motorcade route, where their "God Bless George Bush! We pray for you!" sign was in plain view of both Bush and the journalists accompanying him.

This isn't the first time law enforcement officers have tried to squelch dissenters in President Bush's pres-

*Catherine Crump, Staff Attorney, National ACLU*

ence. In 2004, Jeffrey and Nicole Rank were arrested for peacefully attending one of the president's speeches while wearing t-shirts bearing the international "no" symbol superimposed over the word "Bush." The Ranks sued and ultimately received an \$80,000



PHOTO: TERRY RILEY

Visit [www.democracyfornewmexico.com](http://www.democracyfornewmexico.com) for more photos.

settlement from the White House—a win for free speech after a fight that should never have been necessary in a free society.

And in 2005, Leslie Weise and Alex Young were ejected from another of the president's speeches because of a bumper sticker on their car that read "No More Blood for Oil." Their lawsuit is still pending.

Now, the ACLU has filed a complaint in federal court on behalf of six of the peaceful protesters in New Mexico who were banned from the view of the president.

*Continued on page 2*

## CELEBRATE WOMEN'S HISTORY: 2008



Women have made great strides in the fight for equality, but gender bias continues to create huge barriers for many—especially immigrants, women of color, women with low incomes, and victims of domestic violence.

Women's History Month draws attention to the women who have fought for the rights we have today, and at the same time highlights the ongoing struggles for women's equality, such as ensuring economic and educational opportunities for all women, ending violence against women, and addressing the harms to women and girls caught up in the criminal justice system.

Since 1972 the ACLU Women's Rights Project has been working to systematically end discrimination against women and girls and to challenge the obstacles that prevent women and girls from participating fully in all aspects of society. Visit [www.aclu.org/womensrights/gen/womenshistorymonth2008.html](http://www.aclu.org/womensrights/gen/womenshistorymonth2008.html) for more information.

**Do you know your rights?**

Check out long-time ACLU member Sanford Brickner's weekly column "Know Your Rights" Visit: [web.mac.com/sanfordbrickner](http://web.mac.com/sanfordbrickner)

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**Executive Director's Message**

**Healthcare Freedoms in  
Northern New Mexico**

Hopefully you never have occasion to require hospitalization at St. Vincent Regional Medical Center in Santa Fe. Hopefully your situation is not so dire that you even must consider how to conclude your life, or that of a family member.

If someday you find yourself in those tragic circumstances, the ACLU and a group of partner organizations want to make sure you can control the extent to which physicians seek to extend your life or that of a loved one. We want to make sure that the hospital's pending merger with a Catholic health system named Christus does not interfere with wishes you may have set out in a living will or an advance directive.

There's good reason to be concerned. As a Catholic health corporation, Christus is bound by the Ethical and Religious Directives of the Catholic Church, which require that:

- The decision to "withdraw life sustaining procedures shall always be respected...unless it is contrary to Catholic moral teachings."
- "Patients experiencing suffering that cannot be alleviated should be helped to appreciate the Christian understanding of redemptive suffering."

The ERDs also say, "Employees of a Catholic health care institution must...adhere to these directives."

Under the Christus/SVH partnership, Christus employees will oversee the hospital.

SVH officials have assured the Santa Fe community that creative management structures will circumvent any conflicts between the ERDs and comprehensive family planning services or the right to die with dignity. Unfortunately, promises of that kind preceded similar mergers in other states, only to melt away

**Bush Protest,** *continued from page 1*

It is our hope that the lawsuit will prove once and for all that incidents such as these are unconstitutional.

These incidents of censorship appear to be dictated by White House policy. The official Presidential Advance Manual recommends that someone working on the ground where the president is to make an appearance "ask the local police department to designate a protest area where demonstrators can be placed, preferably not in view of the event site or motorcade route." It advocates the formation of "rally squads" of sign-wielding supporters that can "use their signs and banners as shields between the demonstrators and the main press platform." It also suggests that the rally squads "lead supportive chants to drown out the protesters (USA! USA! USA!)."

Lest it be thought that only Republican administrations engage in this type of behavior, it is worth pointing out that the Clinton administration's Advance Manual also suggested that supporters could "be encouraged to wave supporting placards in front of opposing ones." In fact, the ACLU supported a lawsuit against a government policy that prohibited people from demonstrating along the route of Clinton's presidential inauguration parade.

It's easy to see why presidents would want to be pictured surrounded by adoring supporters. After all, the true audience for a presidential appearance is usually

when High Church leadership put the heat on merged facilities to abide by strict interpretations of the ERDs.

For example, mere days after the U.S. Conference of Catholic Bishops revised the ERDs in 2001, a Catholic health system in Austin, Texas--Seton Health Care--broke its longstanding promise to Austin city officials that sterilizations would continue to be provided in a city-owned hospital that Seton Health Care managed.

In the past, Christus has initiated its own such changes after a merger is signed. Not long after Christus acquired McCuiston Hospital, in Paris, Texas, it removed maternity services from the hospital, separating delivery and tubal ligation services from critical emergency room facilities.

These are the possibilities the ACLU aims to protect against. We and our allies are urging St. Vincent Hospital to put its assurances in writing--in the legal agreements that eventually merge Christus and the hospital. If the hospital is serious about its commitment to continue health care as it has always been provided, this should not be an obstacle.

Any New Mexican could find themselves in need of St. Vincent's services--on a chance trip to northern New Mexico, or as a resident of Santa Fe. We're asking all New Mexicans to sign our petition asking the SVH Board of Directors to put its assurances in writing. Go to our Web site at SVHmerger.org. Help us protect the freedom to make health care decisions without interference by religious institutions!



not those who attend in person, but the potential millions who will catch a glimpse on the evening news. Few may hear the words the president speaks, but many will see the images filmed that day.

But the desire to look good does not justify treating members of the public like extras in a campaign commercial rather than citizens with a protected constitutional right to engage in speech of their own. Shielding the president from all criticism is an unsound and undemocratic policy that violates the Constitution. The First Amendment prohibits the government from "abridging the freedom of speech." This guarantee is grounded in the idea that, as Justice Oliver Wendell Holmes explained almost 90 years ago, "the best test of truth is the power of the thought to get itself accepted in the competition of the market."

The right to free speech is meaningless when the government is permitted to do an end run around the First Amendment by relegating those who want to exercise it to remote locations where no one will hear them. Communication requires both a speaker and a listener. Just as it is censorship to prohibit speech entirely, it is censorship to place individuals where they can speak all they want with no chance of being heard.

*Catherine Crump will be in Albuquerque on April 26th as the keynote at the ACLU of New Mexico Annual Membership Meeting from 10 AM to 12 PM at 801 University SE. This event is free and open to the public. Visit [www.aclu-nm.org](http://www.aclu-nm.org) for more information.*



**PETER SIMONSON**

## Spring 2008 Legal Report



The ACLU of New Mexico's Legal Department undertakes litigation that advances and defends constitutional rights in New Mexico with an emphasis on cases that

have a broad policy impact. We represent ordinary people who have experienced an injustice and have decided to reclaim their rights. The following report provides information on many of our cases. For more information and updates on the ACLU of New Mexico's legal docket, please visit [aclu-nm.org](http://aclu-nm.org).

### RECENT SUCCESSES

#### **Segway Case in the Las Cruces Mall**

Cooperating attorney Joleen Youngers filed this case with staff attorney George Bach against a Las Cruces mall that was prohibiting a disabled man from utilizing a "Segway" motorized device to access the mall. Funk, who suffers from severe scoliosis and spinal stenosis, uses the Segway as an alternative to a wheelchair as his principal assistive transportation device. Segways have become popular among some veteran groups because of the advantages that they present over wheelchairs for severely injured servicemen and women. A favorable settlement agreement has been reached, the terms of which will be disclosed upon completion of the final paperwork.

#### **City Forfeiture Proceeding**

George obtained the dismissal of a City of Albuquerque "nuisance" forfeiture proceeding filed against a woman who had already paid the vehicle seizure fees. The woman's truck had been loaned to a friend (by the woman's husband and without her knowledge) and the friend was then arrested in it. The City stated that the forfeiture proceeding was filed as the result of a clerical error.

#### **Farmington Sex Offender Ordinance**

The City of Farmington proposed an ordinance that contained Draconian provisions identical to those struck down in the City of Albuquerque litigation in 2003-2004. The ACLU of New Mexico wrote the City Attorney and faxed him the court opinions from the Albuquerque litigation. The City of Farmington amended the proposed ordinance to address the issues raised by the ACLU of New Mexico.

#### **Los Lunas Sign**

ACLU of New Mexico Law Clerk Brendan authored a demand letter to the Village of Las Lunas, which ordered a man to take down his "Richardson 2008" sign because it was displayed more than 32 days before an election. After our letter, the man put the sign back up and has not been cited.

#### **UNM Catholic Studies Chair**

Cooperating attorney Rob Schwartz, Executive Director Peter Simonson, George, and Brendan met with UNM attorneys and Professor Rich Wood to address the ACLU of New Mexico's concerns about the set-up of a "Catholic Studies Chair" funded in part by the Archdiocese of Santa Fe. UNM and the Archdiocese amended their agreement to address the ACLU of New Mexico's First Amendment concerns.

### NEW LITIGATION

#### **Dona Ana County Detention Center**

Attorneys Nancy Koenisberg, Rosemary Bauman, and Tim Gardner, of Protection and Advocacy, attorneys Peter Cubra, Mike Lilley, Lisa Schatz-Vance, Simon

George Bach, Staff Attorney

Tuck, and George filed a lawsuit against Dona Ana County Detention Center for failing to provide adequate mental health screening. The case was originally assigned to State District Judge Robert Robles, but was removed to federal court. The ACLU of New Mexico Southern Regional Office administrative secretary Susana Casillas has done amazing work interviewing inmates.

#### **Medical Marijuana**

The ACLU of New Mexico is representing a Malaga, New Mexico (near Carlsbad) man who has a state-issued license to possess marijuana for medical purposes (the state's medical marijuana law was passed in 2007). The Pecos Valley Drug Task Force raided the man's home and seized his marijuana (three small plants) and his growing system, turning it over to the DEA. The lawsuit states the deputies' actions violated not only that law, but also state forfeiture laws and a constitutional prohibition on unreasonable searches and seizures.

#### **Children, Youth and Families Department (CYFD) Juvenile Detention – Springer/YDDC**

Cooperating attorneys Dan Yohalem, Peter Cubra, Phil Davis, and Lee Hunt filed suit on behalf of the ACLU of New Mexico against CYFD for breach of contract. The suit alleges that CYFD failed to live up to the agreement reached by the parties regarding the conditions of juvenile detention in New Mexico.

#### **Reserve, NM Prom**

In July 2007, George and Cooperating attorney Scott Cameron filed suit against the Reserve High School Principal for prohibiting former student Jonathan Cooke from attending his senior prom, allegedly because his Asian suit was too informal. Formal attire at the event was "optional" and other students attended in jeans and short-sleeve sport shirts. The ACLU of New Mexico contended the principal did not like Jonathan or his family and her actions were driven by animus against them. The case was successfully settled in December 2007 for \$6000.

#### **Bush Visit Protest**

Josh Hsu and Catherine Crump from the ACLU national filed a complaint regarding disparate treatment of spectators during a presidential visit to Los Ranchos de Albuquerque in September 2007. War protesters were pushed back out of sight of the President's motorcade, while supporters were permitted to stand on the curbside. Josh and Catherine are lead counsel on this litigation; George is serving as local counsel. (See article on page 1.)

#### **Guild Cinema**

Peter, Brendan, Communications Manager Whitney Potter, and George responded to an eleventh hour call from the Guild Cinema, which had received a notice that it would be cited for zoning violations if it proceeded to show "Pornotopia," an erotic film festival. Ultimately, the Cinema was noticed but not penalized, and conversations between the City and the ACLU will be ongoing regarding the contours of the zoning ordinance.

### UPDATED INFORMATION ON PENDING LITIGATION

#### **Immigration Detainees**

Immigration and Customs Enforcement continues to keep detainees away from the Regional Correctional

Continued on page 7



### ACLU OF NEW MEXICO LEGAL PANEL

Reber Boulton  
Phil Davis  
Jane Gagne  
Maureen Sanders

### BRENDAN EGAN TO JOIN LEGAL TEAM AS SECOND FULL-TIME STAFF ATTORNEY

We are proud to announce that ACLU of New Mexico law clerk Brendan Egan has agreed to join us permanently as our second full-time staff attorney. Brendan graduates from UNM School of Law in May 2008; he and George Bach make an outstanding team and we are excited about having them both on board next year.



Harley and Daisy, two of our favorite civil liberties guard dogs!

**ACLU OF NEW MEXICO  
CHAPTERS**

**Are you part of your local ACLU  
of New Mexico chapter?**

The ACLU of New Mexico has a number of vibrant, active, and effective chapters throughout the state. Find an ACLU of New Mexico chapter in your area below. Call (505) 266-5915 ext. 1003 or [wpotter@aclu-nm.org](mailto:wpotter@aclu-nm.org).

**McKinley County Chapter**

**Northern New Mexico Chapter**

**Southwestern Chapter**

**UNM Chapter**

**UNM Law School Chapter**

**Youth Advisory, Activism, &  
Advocacy Board (YAAAB)**

## Daniel Williams Awarded 2008 ACLU Youth Activist Scholarship

*Whitney Potter, Communications Manager*

The ACLU Youth Activist Scholarship is awarded to students who have stood up for rights like free speech, LGBT issues, racial justice, religious freedom, women's rights or other civil liberty principles in their high school or community. Scholarship winners receive \$5,000 toward their first year of college and become part of an elite class of scholar-activists who will be invited to participate in ongoing activities with the ACLU.

On behalf of the ACLU of New Mexico, I would like to congratulate Daniel Williams for being selected by the National ACLU as this year's ACLU Youth Activist Scholar.

Daniel Williams of Albuquerque, NM is a leader in educating the youth of New Mexico about their civil liberties. Two and a half years ago, Daniel founded the ACLU of New Mexico's Youth Advisory, Activism, & Advocacy Board (YAAAB), and he remains the president today. With this group, Daniel created several events to open civil liberties dialogues among his peers, including: the state's first Bill of Rights Mock Trial Competition, an annual series of screenings of civil liberties-themed films, and a free-press seminar for student journalists called, "Know Your Writes!" Daniel also reports on youth issues to the ACLU of New Mexico's Board of Directors, where his proposals have been voted on and enacted.

"I hope to see a future in which Americans think of themselves primarily as civil libertarians, not as Greens or Republicans or Independents or Democrats or anything else. I hope that people ask themselves, 'Will this candidate stop the abuse of power? Will this

ballot initiative keep Americans safe and free? What will this mean for LGBT issues? For choice issues? For privacy? For habeas? Or for any of the other issues we face everyday as ACLU members?' Daniel Williams said. "Think of what a change that will mean for how we function as a nation."



PHOTO: OSSY WERNER

DANIEL WILLIAMS at the 2008 Bill of Rights Dinner where he received the *Outstanding Youth Activist Award*. Visit [www.myspace.com/yaaab](http://www.myspace.com/yaaab) to get involved with the ACLU of New Mexico's Youth Advisory, Activism, & Advocacy Board.

*"We can, in a generation or less, win what seemed hardly a dream but a few years ago..."*

*A world in which discrimination against LGBT people is no more.*

**-MATTHEW COLES**

Director of the ACLU Lesbian Gay Bisexual Transgender and AIDS Project



Thank you for sharing your stories! We will continue to fight for you.

## HB 9 and Our Fight for Fairness

*Jennifer Rose, LGBT Field Organizer*

The legislative session for 08' has come to an end and we unfortunately did not get the results we wanted for HB 9. As many of you know House Bill 9, the Domestic Partners Rights and Responsibilities Act, passed through the House with a vote of 33-31 in the first two weeks of the session and then was tabled in the Senate Judiciary Committee. Although the bill did not pass this session we made a lot of progress and will continue to work towards achieving our goal of insuring legal protections for all New Mexico families.

The ACLU played a critical role in this fight, and we have a lot to be proud of. Our members made phone calls to constituents, participated in lobby visits, testified before the House and Senate, shared their stories in press conferences, and attended town hall meetings. In the past six months staff traveled the state engaging our ACLU members in towns ranging from Taos to Silver City. In places we were unable to visit, we made calls and spoke with individuals who care

about fairness and who reached out to friends, family, and legislators asking them to support this legislation. We spoke with couples who shared their stories about why domestic partnership is important and have built a strong coalition of ally organizations.

How do these efforts make a difference? The work of ACLU members and staff help change the hearts and minds of legislators throughout the state. And we will continue to work together until all New Mexicans receive legal protections for their relationships and families.

I want to personally thank all of our members who have stood up for fairness. Whether it was making calls, spreading the word, sharing your personal story, or showing up at the Roundhouse, your support and efforts are essential to attaining our goal. We will not give up until fairness and equality is a reality for all New Mexicans.

## YouTube Videos Show the Need for Legal Protections for all New Mexico Families

As many of you know, we worked tirelessly with Equality New Mexico over the last several months talking to individuals, couples, and families across the state about the need for legal protections for all New Mexico families.

We met some extraordinary families and we would like you to meet them and learn how you can help to

ensure that these and other New Mexico families are no longer denied important legal protections.

Please take a moment and listen to the stories of families whose lives would be impacted by domestic partnership legislation. Visit:

<http://www.aclu.org/lgbt/relationships/newmexico.html>

# 2008 ACLU Board of Directors Candidates

The following are statements of interest from the six individuals who are running for open positions on the ACLU of New Mexico Board of Directors. A ballot to vote for Board members appears on page 6.

**Please mark your choices and return the ballot to the ACLU of New Mexico office, postmarked by March 31st, 2008: ACLU-NM Board Ballot, PO Box 566, Albuquerque, NM 87103.**

### ➔ THEO CREVENNA

I would like to be considered for reelection to the board of directors of the ACLU of New Mexico.

The next nine months of the frightening Bush-Cheney administration will be a great challenge for all of us to defend and uphold the Bill of Rights and I would like to be privileged to be in that battle. This, in part, is my reason why I would like to continue to work on New Mexico legislative matters both at the county and state levels.

I would also like to work on fundraising to help raise the financial resources so urgently needed. While membership has grown very substantially, there probably will be fewer incentives for new members to really become involved. Thus we need to attract solid and proactive persons to continue our high membership level. This requires steady educational and solidly supported outreach programs. The Budget Committee, on which I happily have served, must find ways to financially support this effort, while at the same time obtaining new financial resources through promotional and grant writing, providing, as appropriate, assistance to the development director. I would believe that this effort should have high priority and I would hope that I could contribute to that effort.

Not to be forgotten are our steep responsibilities on questions relating to the border and immigration. I think it is important and I would like to contribute that our Southern Office in Las Cruces, which has so capably been initiated.

As a Board member I would wish to continue to support and provide professional treatment of our fine staff members, with great attention to fair and appreciated decision.

In line with all the efforts of so many capable and dedicated ACLU-NM members, who have contributed tremendously to our usually successful undertakings, I would like to assist in promoting and strengthening our state-wide reputation "Here comes the ACLU-NM."

### ➔ TOVA INDRITZ

I am a criminal defense lawyer, doing trials, appeals, and post-conviction remedy cases; I practice in federal and state courts and occasionally in Indian tribal courts. In my 33 years of representing accused persons who are presumed innocent, I have seen the ever-quickening erosion of the Bill of Rights, especially the Fourth, Fifth, and Sixth Amendments. The U.S. now incarcerates a higher percentage of its population than any other country in the world, and we persist as the only Western country with the death penalty.

I have a particular interest in the harsh consequences of criminal convictions for non-U.S. citizens and was pleased to have successfully represented the ACLU of New Mexico before the New Mexico Supreme Court in a landmark case, *State v. Paredez*, 2004-NMSC-036, 101 P.3d 799, 136 N.M. 533 (2004), that ruled that criminal defense lawyers must ascertain if their client is a U.S. citizen, determine the immigration consequences

of the charges, and fully inform the client of those immigration consequences. Like other cases the ACLU of New Mexico undertakes, this case will help thousands of people for years to come. I have also represented a defendant in a criminal case on behalf of the ACLU of New Mexico as a cooperating attorney.

I am a keen advocate of the First Amendment, especially the separation of church and state.

I have been proud to serve on the Board of the ACLU of New Mexico since 1987. I have served in the past as Secretary and member of the Executive Committee. I currently serve on the Budget Committee because we have to pay attention to the structure and finances of our organization in order to carry out our important programmatic work.

I sometimes speak to community groups on behalf of the ACLU, and have spoken at the Islamic Mosque, a community that especially needs outreach from the ACLU, to foreign students at UNM, and on the radio.

Eternal vigilance continues to be the price of liberty!

### ➔ C. PAULINA IÑIGO, M.D.

I have been asked to write a brief statement outlining my desire to continue on the Board of Directors of the ACLU of New Mexico.

In December of 2006 I first became involved at the board level with the ACLU. In the last 14 months I have attended most of the board meetings, participated in the Board Administration Committee, attended the Board Retreat in Ruidoso and the Bill of Rights Dinner. I have thoroughly enjoyed my time at these meetings and functions. It has been a year of intense learning about the crucial issues in our state and at the national level and the structure of the Union and Foundation. Meeting all the staff and other board members has been exciting and important to further work with the board.

In the future I hope to be able to improve in the areas of development.

I understand that there are issues around reproductive healthcare that may become important in the next few months to years. My medical background will serve to help the Board with these matters.

I will continue my personal commitment to financially supporting the ACLU of New Mexico to the best of my ability.

Thank you for your consideration.

### ➔ GARY C. MITCHELL

Change is coming our politicians tell us but when and how dramatic? Dramatic enough to ensure children have the same rights as adults, the poor have equal treatment in our courts, a child of color does not receive a disproportionate sentence, all can marry no matter what sex, a woman has not only equal pay but equal opportunity, we stop killing to show that killing is wrong, prisoners are finally cared for and rehabilitated rather than stuffed in some rat hole which provides the only opportunity for employment in some poor community because it is simpler to create a job based on human misery rather than human progress, religion is an individual choice and not a requisite for appropriate assistance from the government, communication through education is the norm rather than fear mongering, a human of color is just as welcome as a white human and entitled to the same due process as any citizen no matter his or her coun-

*Continued on page 6*



## SUPPORT THE ACLU!

The need has never been greater for freedom-loving people to join the ACLU and take a stand against the growing threats to our most cherished Constitutional liberties.

Become a card-carrying member of the ACLU or renew your membership today!

Please contact the Development Department at (505) 266-5915 ext. 1001 or [supportus@aclu-nm.org](mailto:supportus@aclu-nm.org).



To make a donation online right away, visit [www.aclu-nm.org](http://www.aclu-nm.org) and click the **Donate Now** button. You may also fill out the form on page 8 and send it back to us.

## NOTICE OF FOUNDATION NAME CHANGE

The Name of our foundation has changed. In January, 2008, the New Mexico Civil Liberties Foundation became the American Civil Liberties Union of New Mexico Foundation.

You will see our new name on our Web site and literature in the coming weeks. Please be sure that any donations or correspondence with the foundation be directed to the American Civil Liberties Union of New Mexico Foundation. Thank you for your ongoing support!



Join the ACLU of New Mexico  
**E-Alert Network**

Receive email alerts so you can take action on key civil liberties issues when it matters most.

Sign up at:  
[www.aclu-nm.org](http://www.aclu-nm.org)

Make a difference on important issues!

## Board Election

Continued from page 5

try of origin, we honor our Constitutions both State and Federal by not limiting either with acts we call Patriotic,...we hope but know that ACLU despite the promises will have to fight to obtain.

I look about and see we have much work to do. We have done much but there is much more to do. We welcome a new, interested generation with hope that freedom becomes not just a dream nor a historical event but a present reality. I am optimistic that some day soon justice will be fair and equal to all across this state and I who travel to every jurisdiction will no longer speak of regions of the state where justice does not exist. I think the day is soon when the entire state and its entire people will be recognized not only for their great zeal to protect liberty but to enhance it.

I have worked for over thirty years to see the dream of real freedom for all, come true. That day is not here, yet, but if we all work as those who have been the lifeblood of the ACLU of New Mexico have, it will come true. It has been my privilege and honor to be a board member for many years and the President for several years. Our work is not done, it is only beginning and for me the fire and passion is greater and stronger than ever. I would like to continue.

### ➤ GABINO RENDÓN

While I was working in 1958 with César Chávez and Fred Ross with the Community Service Organization in Imperial Valley in California, a young man came in who had been charged with a crime. Fred and César referred him to an ACLU attorney, saying that if it was a civil rights issue he would take the case free of charge; it turned out it was not, but the attorney took the case for what appeared to me a very reasonable fee even for the poor farm worker. I was impressed by the courage of that attorney to take on civil rights issues in such an oppressive community.

Upon my return to home base in 1961, to continue my studies at the University of Colorado, Boulder, an ACLU representative made a presentation. I have been an ACLU member ever since.

Upon my arrival in New Mexico in 1966 I found out that I was one of three ACLU members in the north-eastern part of the state. By 1967, two had moved. I became an ACLU of New Mexico board member (also a board member of the Northern Chapter of the ACLU of New Mexico) until 1969 when I took employment out of state. Since my return I have served on the affiliate and chapter Boards intermittently. While serving on the NM Board in 2001 illnesses dictated I resign because I felt I could not serve effectively. I have since fully recovered and feel I can again vigorously continue to work to achieve the important goals of the ACLU in securing civil liberties by serving on the ACLU of New Mexico Board.

### ➤ CHRISTINA ROSADO-MAHER

I am running for a seat on the board of the ACLU of New Mexico because I believe that it is more important than ever to defend the civil liberties of all individuals in the U.S. My particular area of interest centers on the rights of immigrants. In 2003, I moved to New Mexico and was pleased to find the ACLU was active in my community. I was a member of the board of directors of the ACLU in San Diego and Imperial Counties in 1993-1994. I was elected and served on the board of the ACLU of New Mexico, but resigned in 2004 after the birth of my daughter. I wish to return to the board because I have more time to devote to a broad range of issues that affect our community.

In the past, I have represented non-citizens in deportation proceedings as well as worked to improve the detention standards for immigrants facing deportation. I have also worked on cases involving immigrants detained after September 11th. I received my Bachelor's degree in Political Science from UCLA and a Juris Doctorate from Northeastern University in Boston.

## Instructions for Voting

There are six candidates running for seven open seats. You may vote for any number of the six candidates. To vote, check or mark the box next to the candidate's name.

For households with two ACLU of New Mexico members, each member may vote—simply have the second member check off the votes in the second column of boxes. **For households with one ACLU of New Mexico member, check off votes in one column only.**

We must confirm ACLU of New Mexico membership and still keep the votes anonymous. We need your help to do this. Cut out the ballot and insert it in a plain envelope marked "ballot" then place this envelope in a second envelope with your name and return address so that we can check to make sure you are a current ACLU member. Remember to include a second name if you have a household membership.

After we confirm membership, we discard the outer envelope and count the ballots anonymously. **Ballots must be postmarked by March 31, 2008.** Volunteers will count the ballots and all candidates will be notified of the results prior to posting the results in the next issue of *The Torch* and on the ACLU of New Mexico website: [www.aclu-nm.org](http://www.aclu-nm.org).



Board of Directors candidates in alphabetical order:

#### Ballot for Member #1:

- THEO CREVENNA
- TOVA INDRITZ
- C. PAULINA IÑIGO
- GARY C. MITCHELL
- GABINO RENDÓN
- CHRISTINA ROSADO-MAHER

#### Ballot for Member #2:

- THEO CREVENNA
- TOVA INDRITZ
- C. PAULINA IÑIGO
- GARY C. MITCHELL
- GABINO RENDÓN
- CHRISTINA ROSADO-MAHER

✉ Ballots must be postmarked by **March 31st, 2008**

Send ballots to:  
ACLU of New Mexico  
Board Ballot  
P.O. Box 566  
Albuquerque, NM 87103

Questions?  
Call (505) 266-5915

## Director and Producers of *The ACLU Freedom Files* to Speak at Northern Chapter Annual Meeting in Santa Fe



Emmy Award winner Jeremy Kagan and Anneke Campbell will be speaking at the Northern Chapter of the ACLU of New Mexico's annual meeting on May 17, 2008 at the Santa Fe Film Center.

Kagan directed and the two produced the first season of *The ACLU Freedom Files*. Season One of *The ACLU Freedom Files* is a revolutionary, 10-part series of documentaries that tells the stories of real people in America whose civil liberties were threatened and shows how they fought back. This dynamic series combines interviews, documentary footage, comedy, drama, music and animation to engage viewers and

alert them to critical civil rights issues ranging from free speech to religious freedom.

The event will include screenings of *The ACLU Freedom Files* and an opportunity for Q&A. Don't miss this exciting opportunity to meet Jeremy Kagan and Anneke Campbell and to catch up with other civil libertarians in the area. This event is free and open to the public. For more information please call (505) 982-8181 or email Steve Marvin, chapter president [SMarvin43@aol.com](mailto:SMarvin43@aol.com).

**Details:** Northern Chapter of the ACLU of New Mexico's Annual Meeting with Jeremy Kagan and Anneke Campbell, May 17, 2008, 3 to 5 PM, Santa Fe Film Center, 1616 St. Michael's Drive, in the St. Michael's Village West Shopping Center

## Legal Report

Continued from page 3

Center in Albuquerque, after repeated complaints about conditions. (U.S. Marshal detainees remain at the facility). Currently, George and Brendan continue to litigate habeas corpus petitions for detained immigrants whose removal is not foreseeable. With assistance from the ACLU Immigrant Rights Project, they are working to expand the law so that immigrants are not detained if their native country has clearly refused repatriation. Because much of this work takes place in El Paso where many immigrants are now being detained, George has applied for admission to the U.S. District Court of the Western District of Texas.

### Domestic Partnerships

Co-Legal Director Maureen Sanders and George filed suit on behalf of three same-sex couples over retiree benefits for same-sex partners. The State fails to provide healthcare insurance for a retired state employee's partner, despite the fact that the partner received insurance while the state employee was still working, pursuant to an Executive Order. The ACLU of New Mexico successfully fended off a motion to dismiss and George, Maureen, and Brendan are working on the discovery phase of the litigation.

### Farmington and Deming Local Labor Ordinances

In September 2005, cooperating attorney Justin Lesky and George Bach filed a First Amendment lawsuit against Deming and Farmington regarding unconstitutional provisions within their labor-management relations ordinance. The ordinances prohibit protected picketing and keep the public employee unions from endorsing issues and candidates.

George and cooperating attorney Justin Lesky filed a motion for summary judgment in this case, which challenges the City's restrictions of labor union's free speech rights.

### Williams v. W.D. Sports N.M., Inc.

This case was originally litigated two years ago by cooperating attorney Katy Hammel and Co-Legal Director Maureen Sanders. Plaintiffs alleged sexual harassment against the players and owners of the Scorpions hockey team. In 2005, the trial resulted in a verdict for the Defendants. On August 8, 2007, the Tenth Circuit Court of Appeals upheld the jury verdict against three of the four Plaintiffs, but agreed with Maureen and Katy that the district court incorrectly dismissed Plain-

tiff Rosann Williams's retaliation claim. Maureen and George are proceeding to litigate that claim for Ms. Williams before U.S. District Judge William P. "Chip" Johnson. A trial is currently set for March 2008.

### ON APPEAL

#### Kendra's Law

State District Judge Valerie Huling issued a permanent injunction on October 13, 2006, striking down the City of Albuquerque's Assisted Outpatient Treatment ordinance (forced medication) on the ground that it was preempted by state law, after attorneys Nancy Koenisberg, Peter Cubra, Rosemary Bauman and George filed suit to enjoin the ordinance. The City appealed the case to the New Mexico Court of Appeals. Briefing is complete and the case was submitted to Judges Sutin, Pickard, and Fry.

#### Albuquerque DWI Seizure Ordinance

In September 2005, the City of Albuquerque filed a Notice of Appeal to the New Mexico Court of Appeals regarding the DWI Vehicle Seizure Ordinance. The ordinance would have permitted Albuquerque Police to seize and forfeit vehicles upon first arrest (not conviction) for DWI. After ACLU-NM sued, State District Judge Theresa Baca declared the ordinance unconstitutional in August 2005. In May 2007, the New Mexico Court of Appeals reversed the district court, stating that the plaintiffs (ACLU and its Executive Director Peter Simonson) did not have "standing" to sue because the ordinance had not gone into effect yet when they filed suit. George, Maureen, and cooperating attorneys Paul Kennedy, Sam Rasheed, and Roger Smith sought review of the Court of Appeals' decision in the New Mexico Supreme Court. The Supreme Court heard oral arguments on February 11, 2008.

#### Albuquerque Voter I.D.

On February 12, 2007, federal judge Christina Armijo struck down the Albuquerque Voter I.D. ordinance that passed during the October 4, 2005 municipal elections. The new ordinance required I.D. at the polls but not for absentee ballots. Judge Armijo declared the ordinance a violation of equal protection under the U.S. Constitution. Cooperating attorneys Jim Scarantino, Joe Kennedy, Shannon Oliver, and Scott Cameron litigated the case on behalf of the ACLU of New Mexico. The City has appealed the decision to the U.S. Court of Appeals for the Tenth Circuit. Andy Schultz and Kip Purcell of the Rodey Law Firm are the ACLU of New Mexico cooperating attorneys handling the appeal.

### MCKINLEY COUNTY CHAPTER CO-SPONSORS EVENT ON THE DEATH PENALTY

Gary Mitchell, president of the ACLU of New Mexico Board of Directors spoke at the *Race to Execution* event on February 3, 2008 in Gallup. *Race to Execution* is a film by Rachel Lyon that explores the deep and disturbing link between race and the death penalty in America. The event was co-sponsored by the McKinley County Chapter of the ACLU of New Mexico.



(L to R) Mona Frazer, NAACP, Gary Mitchell, and Kimberly Ross-Toledo, McKinley County Health Alliance.

PHOTO: ELLEN LACAYO

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## News from Our Regional Offices

### Southern Regional Office & Border Rights Project Hires Program Coordinator



**EMILY CAREY**  
Program Coordinator,  
Southern Regional  
Office & Border  
Rights Project

Emily Carey joined the staff of the Southern Regional Office and Border Rights Project in February as Program Coordinator. A staunch advocate for immigrants in the border area, her background includes work experience on both sides of the border: in Juárez and Tijuana, as well as El Paso and southern California, as a community organizer, coordinator of a campaign to end local law enforcement of federal immigration law, advocate for survivors of torture, refugees and political asylees; as well as an active participant in an Abuse Documentation Campaign.

*Maria Nape, Director, Souther Regional Office & Border Rights Project*

Emily holds a Master's Degree in Social Work from the University of Michigan with a concentration in community organizing and community social systems; and a Bachelor's Degree from Boston College in Human Development.

Fully bilingual, Emily has demonstrated her passion for working in this field on a daily basis and will no doubt become a trusted advocate in this community in a short period of time. We're very fortunate to have Emily as a member of our team and look forward to her expertise and assistance in making major progress toward fairness and justice for the immigrant community.

### ACLU of New Mexico Launches "Get it in Writing" Campaign with Coalition

Are you concerned that the proposed merger between St. Vincent Hospital and a Dallas-based, Catholic health corporation called Christus Health is going to limit your freedom to choose family planning services or make end-of-life decisions?

We sure are.

The ACLU of New Mexico and coalition partners want St. Vincent and Christus Health to write guarantees into their merger agreement that reproductive health and end-of-life care will not be compromised.

Join our campaign to **Get it in Writing**.  
Visit [SVHmerger.org](http://SVHmerger.org)



**DIANE WOOD**, director of the Northern Regional Office of the ACLU of New Mexico, speaking at the March 5th press conference in front of St. Vincent Hospital.  
PHOTO: WHITNEY POTTER

### Coming Soon: 2008 Legislative Session Scorecard

The ACLU of New Mexico's legislative advocacy and lobbying program works to defeat bills that threaten civil liberties and establish state statutes that strengthen rights and protections under the Constitution. Every year we publish a legislative scorecard which provides information about the voting records of all members of the NM Legislature on legislation with civil liberties implications. Scorecards are a clear and comprehensive way for voters to see how they are being represented. **Visit [www.aclu-nm.org](http://www.aclu-nm.org)**



# Fight Back!

## Support the American Civil Liberties Union of New Mexico

Please accept my tax-deductible donation made out to the ACLU of New Mexico Foundation in the amount of:

\$25,000+	Executive Director's Circle
\$15,000+	Liberty Council
\$10,000+	Constitution Circle
\$5,000+	Roger Baldwin Circle
\$1,000+	Guardian of Freedom
\$500+	Safe and Free Council
\$100+	Defenders Circle
\$	Other

My donation of \$\_\_\_\_\_ is enclosed.

Membership contributions to the ACLU of New Mexico support legislative and lobbying work and are not tax deductible. Please make checks for membership payable to the ACLU of New Mexico.

\_\_\_\_ I would like to become a card-carrying member of the ACLU-NM and make a gift of \$20 for an Individual membership.  
\_\_\_\_ I would like to make a gift of \$30 for a Joint Household membership.

Please charge my ACLU-NM Membership/Foundation gift to my (circle one): MasterCard/Visa/American Express

Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

Donation Amount \_\_\_\_\_ Authorized by \_\_\_\_\_ Security Code \_\_\_\_\_

In order for us to accurately record your membership/gift and send a receipt, please complete the following:

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City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone (Daytime) \_\_\_\_\_ Phone (Evening) \_\_\_\_\_ Email \_\_\_\_\_

#### ✉ RETURN TO:

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SPRING 2008