

# THE TORCH



## IN THIS ISSUE:

PAUL PHILLIPS REMEMBERED  
BORDER VIGILANTES  
PATRIOT ACT REAUTHORIZATION

SUMMER 2005, VOLUME 39, NUMBER 2

## Paul Phillips Remembered

Annette Chakerian

Based upon interviews in June and September of 2003

In 1958 Paul Phillips defended members of the NAACP in Hobbs. From that first case on, Phillips, who died in Palo Alto March 28, fought vigorously for civil liberties in New Mexico. He was a founding member of the New Mexico ACLU affiliate in 1962 and the first representative to the national board in 1966.

His two largest early cases concerned the Tierra Amarilla courthouse raid and the Bernalillo County Seal. In June of 1967, the State Police and National Guard held a group of Alianza families including children for two days in a barbed wire sheep pen with access to only one privy. They were held incommunicado and their homes and vehicles were searched even though there had been no arrests made or warrants issued. The case was a partial victory, but challenges to the procedural rights of the National Guard (which exceeded those of the State Police) failed.

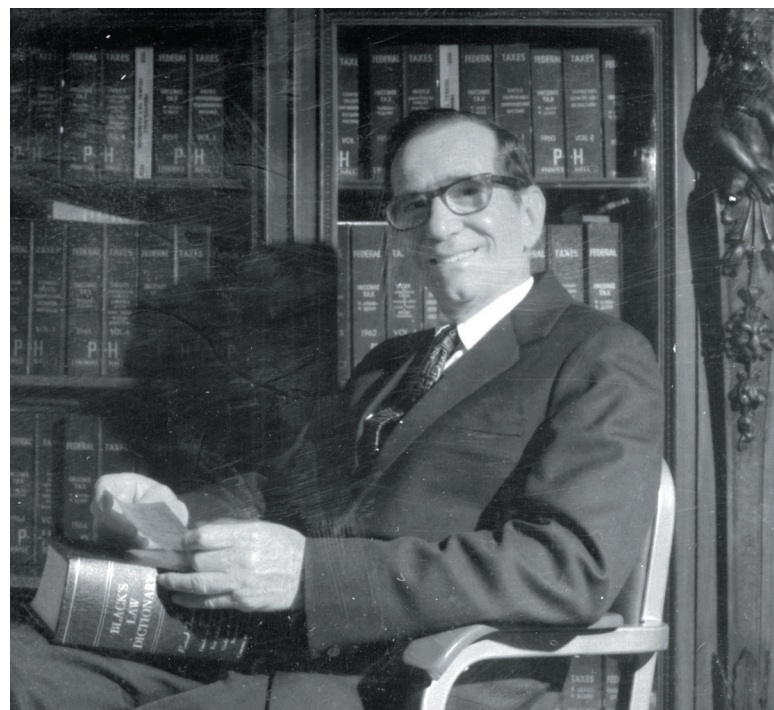
Phillips spent years trying to get the ACLU to challenge the Bernalillo County Seal which included a Latin cross and the motto "Con esta vencemos (With this we win)." "I thought that was a personal insult to me," he explained in a recent interview, "that I was losing". There is nothing like someone telling you that you're a second class citizen in your own country because you don't believe." The case failed initially, but Phillips was able to win a 5 to 2 favorable decision by the Tenth Circuit Court. The Supreme Court refused the county's petition to hear the case in 1986.

Both these cases were expensive undertakings for the ACLU. For the sheep pen case, Pete Seeger came to Albuquerque to give a benefit concert that packed Popejoy Hall.

Phillip's other cases reflect success in civil rights battles from the late 50's on.

These include: forcing the reinstatement of a faculty member fired for writing a strongly worded letter to the Hobbs News Sun defending Linda Lovelace; a UNM faculty member who had read an "obscene" poem to her students; obtaining the reinstatement of a Hobbs high school student expelled for wearing his hair long; knocking down vagrancy laws used against a teen and a UNM senior and more generally against anyone who could be charged with loitering; winning the release from confinement and an honorable discharge for a fighter pilot opposed to the Vietnam War at Cannon Air Force Base; and achieving a range of successes concerning protests and the distribution of literature.

Phillips was one of the first people to bring a sex discrimination case, which he lost even on appeal, concerning the assistant cashier of a bank who was fired for refusing to take over the job of a secretary who had quit. Although the woman could not type, the bank president told Phillips on record that he'd have had a lot more trouble trying to give the job to one of the men who could type. "In the 60's, those cases were losers. She would have been compensated two million dollars in the year 2003," according to Phillips. "That was blatant sexism."



Paul Phillips in the 1970s in his ACLU heyday .

In an issue with distinctly contemporary overtones, during the Iran Hostage Crisis, Phillips obtained an injunction against the regents of New Mexico State University preventing the enforcement of a regulation that no person who is a citizen of a country holding Americans hostage could enroll at the University.

**In addition to the ACLU of New Mexico Lifetime Achievement Award, Paul Phillips received awards from the NAACP, the Albuquerque Association of the United Nations, the National Conference of Christians and Jews, and the New Mexico Trial Lawyers' Foundation.**

Phillips was born in 1916 and grew up on New York City's West Side, the son of a prominent trial lawyer and Manhattan chess champion. After high school, which he "desperately" hated, he attended Princeton (class of '38) and was admitted to Columbia Law School. He didn't attend for financial reasons and instead worked in a Lower East Side settlement house and at other jobs. He started attending Brooklyn Law School at night. There he met his wife, Estelle Stengle ("Casey").

In June of 1941 Phillips volunteered for induction. In August the Army increased the period of service to 30 months, and in December came Pearl Harbor.

He married in 1942, and his son Benjamin was born while he was overseas (his two younger children are Alice Zelka and Joyce Phillips). His military service included a stint with the Office of Strategic Services (forerunner of the CIA) in Egypt and Greece.

Within days of his discharge he started at Columbia Law School. He earned his degree in 1947 and followed it with a masters degree in taxation from New York University Law School. During this time, he practiced law, worked on revisions to federal tax law, and also sat with his father who was Morton Sobel's counsel during the Rosenberg Trials. He left Manhattan to teach at the University of Nebraska, and moved to New Mexico in 1957.



AMERICAN CIVIL LIBERTIES UNION  
of NEW MEXICO

## THE TORCH

NEWSLETTER  
OF THE AMERICAN CIVIL  
LIBERTIES UNION OF  
NEW MEXICO

SUMMER 2005  
Volume 39, Number 2

Peter Simonson  
Executive Director

George Bach  
Staff Attorney

Ruth Koury  
Development Director

Kimberly Lavender  
Editor/Communications Manager

Julie Miller  
Editor/Administrative Manager

P O Box 80915  
Albuquerque, NM 87198  
(505) 266-5915

E-mail: [info@aclu-nm.org](mailto:info@aclu-nm.org)

GO TO OUR WEBSITE AT  
[www.aclu-nm.org](http://www.aclu-nm.org)

Membership is \$20 and up

# Border Vigilantes

Peter Simonson  
Executive Director

The board of directors of the ACLU recently made a very prescient decision to remove the leader of a border vigilante group from an official leadership position on our Southern Chapter board. 'Prescient' because the original reason for removing this person—the fact that he headed a group whose activities are antithetical to civil liberties—eventually was eclipsed by troubling revelations about the individual's covert motives for joining the Southern Chapter board and the mentality that drives groups like his.

Even a cursory attempt at Internet research turns up evidence that the so-called 'Minutemen' aim to take the law into their own hands and use quasi-military methods to do it. Take, for example, a Minutemen faction called "Border Guardians." The group's website proclaims its mission to be the "disrupt[ion] and deter[rence of] illegal immigration by any legal means, including psy-ops field missions, propaganda, and infiltration of organizations who are enemies of the lawful American republic and American citizenry as a whole."

Regardless of what you may think about civilians using Vietnam-era military tactics to track down men, women, and children who are passively walking across the desert borderlands, ask yourself, what law-respecting group encourages the disruptive "infiltration" of other private organizations? Aren't free speech and freedom of association the founding principles of that "lawful American republic" that the Border Guardians claim to protect? Does exercising those rights make you an "enemy" of the State?

Lest you assume that the Border Guardians are on the extreme end of Minutemen ideology, let me share some startling facts about what really

motivated Minuteman leader Clifford Alford to join the board of our ACLU Southern Chapter. On a website called "Stop the ACLU," Alford recently published an article in which he urges the American Legion, a veterans group that proposes to "combat the ACLU," to infiltrate our organization and take it over from the "communists and liberals."

"If even half of the members of the American Legion in southern New Mexico... commit to [joining] the ACLU, and ... attend the board meetings," Alford proposes, "then they could expect to be asked to fill vacancies on the board.... Our veterans could propose selected individuals to serve on the board, and vote them on in a massive landslide vote at the elections... If we did this state-wide, then we could effectively take over all of the local boards in the State of New Mexico within three to four years."

In an attempt to distance himself from ACLU beliefs, Alford goes on to declare his support for compulsory military service and the death penalty. Then he confides, "you should also be aware that I... serve as the secretary of the board of directors for the Southern New Mexico Chapter of the ACLU. It took me less than a year to get on the board.... You, too, can be a card carrying member of the ACLU, and you should be... It's time to quit complaining about the problems in this nation, and to get involved in viable solutions."

The owner of a website called "Support Border Controls" celebrates Alford's "fervent stand to show us all how to defeat the ACLU from within." He describes himself as a "California Minuteman" and his website raises funds for the national Minutemen effort.

Alford and his tactics are no real threat to the ACLU. Nationwide, our membership is half a million strong and growing rapidly. Many of our members are veterans who despise the kind of secret-spy antics advocated by Alford and other Minutemen.

Nevertheless, Alford's article plainly illustrates the true, lawless nature of the Minutemen and the un-American attitude that they bring to their mission of mimicking the Border Patrol. I don't have space to provide the first-hand accounts of Minutemen-immigrant encounters that read dangerously like instances of false imprisonment, but I urge ACLU members to see for themselves what the Minutemen look like and how they act once they "let their hair down." Go to [www.ranchrescue.org](http://www.ranchrescue.org).

What you'll find are civilians dressed in camouflage and toting assault weapons. Some conceal their identity with black masks. The photos are chillingly reminiscent of the paramilitary groups that helped military dictatorships in Guatemala and El Salvador crush civil protest and subjugate indigenous communities in the late 1980s. The Southern Poverty Law Center reports that the National Alliance and other white supremacist groups are strongly represented in the Minutemen's ranks.

Seen in this light, the removal of Minutemen Alford from the Southern Chapter was not just a necessary organizational decision. It was also a symbolic stand against fascist mind-sets that have found a new place to take root in the juncture between border confusion and fear of terrorism.

## From the ACLU of New Mexico Board President

Dear ACLU of New Mexico Members:

In early June, the ACLU-NM board of directors suspended its Southern Chapter, located in Las Cruces, following revelations that a member of the chapter board was heading the formation of a New Mexico chapter of the Minutemen—a civilian group organized to track down people whom it suspects of being undocumented immigrants. Under our current bylaws, chapter suspension was the clearest way for the board to remove this individual, who goes by the name of Dr. Sir Clifford Alford, from the leadership structure of our organization. What Alford does in his private life is none of our business, but he could not be allowed to represent the ACLU while simultaneously leading an effort that promotes racial profiling, vigilantism, and other deprivations of liberty.

In practical terms, Alford's presence on the chapter board would have compromised our ability to offer civil rights help to immigrants, especially in the all-important border zone. Alford also had used his status as an ACLU chapter board director to promote the Minutemen and their credibility.

To be clear, the board's decision to suspend the chapter responded not just to Alford, but also to several violations of the affiliate's press policy by chapter board members. The chapter operates under the auspices of the New Mexico affiliate of the ACLU and must abide by its mission and policies.

Evidence has now come to light that Alford joined the Southern Chapter board with the purpose of disrupting our organization from within. That may sound like an extreme claim, but the evidence, published on a website called "Stop the ACLU," is incontrovertible. For a rendering of that letter, please refer to the Executive Director's notes in this edition of the Torch.

Once the affiliate revises its own bylaws and creates mechanisms to avoid situations like the current one, the affiliate board will set its sights on working with Southern Chapter members to revive community efforts to defend civil liberties in southern New Mexico. Many passionate and committed civil libertarians make up our Southern Chapter membership.

We sincerely appreciate the patience and commitment of our ACLU members around the state as the affiliate board of directors works through these complicated matters.

Sincerely,

Gary Mitchell

President, Board of Directors  
ACLU of New Mexico



# ACLU of New Mexico Legal Docket

**SECRET WARRANTS?  
SECRET SEARCHES?  
HERE IN AMERICA?!**



THIS ISN'T FICTION. UNDER THE PATRIOT ACT, THE FBI CAN GET A COURT ORDER TO SEARCH YOUR HOME AND NOT TELL YOU FOR MONTHS, OR INDEFINITELY.

AS THE PATRIOT ACT IS CURRENTLY WRITTEN, THE GOVERNMENT CAN ALSO GET A SECRET COURT ORDER FOR YOUR PERSONAL MEDICAL AND FINANCIAL RECORDS, WITHOUT EVER TELLING YOU.

AND THE SCARY THING IS - WE DON'T KNOW WHAT THEY DO WITH THIS INFORMATION. THE PATRIOT ACT IS OUT OF LINE WITH THE CONSTITUTION. SOME OF ITS PROVISIONS STRIP AWAY THE CIVIL LIBERTIES THAT DEFINE OUR NATION.

JOIN US IN THE FIGHT TO CORRECT THE PATRIOT ACT.

LEARN MORE AT:  
[REFORMTHEPATRIOTACT.ORG](http://REFORMTHEPATRIOTACT.ORG)



**EQUAL RIGHTS:** ACLU of NM and the New Mexico Center for Law and Poverty filed an action against UNM Hospital in April 2005 for failure to provide adequate interpreters for non-English speaking patients. Four organizations representing non-English speaking individuals are serving as Plaintiffs. The attorneys are: Gail Evans, ACLU Cooperating attorney Nancy Simmons and Co-Legal Director Maureen Sanders.

**RIGHT TO ASSEMBLE:** A Las Cruces ordinance prohibiting "unruly" conduct was declared unconstitutional on its face in April 2005 in a ruling by state Judge Ralph Robless. The ruling applied to any gathering of five or more people and could have affected any public protest on a sidewalk or park. The case was handled by ACLU Cooperating attorney Charlie Esty.

**RIGHT TO ASSEMBLE:** ACLU of New Mexico is representing sixteen defendants from the organization *Santa Fe Veterans for Peace*. They were cited for trespassing in January 2005 as they attempted to enter the Santa Fe National Cemetery to honor their fallen comrades. ACLU-NM has also sued the Cemetery for fail-

ing to allow the veterans to hold a solemn memorial service at the cemetery. Attorneys are: ACLU Cooperating attorney Kari Morrissey and ACLU staff attorney George Bach.

**POLICE ABUSE:** The ACLU of New Mexico filed suit in May 2005 against Chaves County Sheriff's Department for excessive force arising out of a verbal argument that led to the Sheriff's deputies crashing a graduation party and assaulting the Plaintiffs repeatedly with pepper-balls. Attorneys are: ACLU Cooperating attorneys Art Nieto, Mike Doyle, and ACLU Co-Legal Director Phil Davis.

**POLICE ABUSE:** ACLU of New Mexico filed a motion in May 2005 with U.S. District Judge Martha Vasquez asking her to rule that Hobbs police had failed to comply with the Court's 2004 consent decree addressing racially discriminatory conduct by the department. Attorneys are: ACLU Cooperating attorneys Richard Rosenstock and Dan Yohalem

**FREE SPEECH:** In a victory for free speech, the ACLU of New Mexico successfully challenged a case involving a Clovis man who

was cited for having two partially-clad cartoon "she-devil" stickers on his car. The charges of pornography were dismissed. The attorneys who handled the case were ACLU Cooperating attorney Michael Rosenberg and ACLU staff attorney George Bach.

**FREE SPEECH:** ACLU of New Mexico succeeded in getting a Portales street preacher out of jail after serving over three months in Roosevelt County Detention Center. The preacher was arrested for disorderly conduct and resisting arrest by Portales police when he was holding a church service with his family in an abandoned gas station lot commonly used by street vendors. ACLU staff attorney George Bach.

**PRIVACY RIGHTS:** ACLU of New Mexico sued New Mexico

Orthopaedics Surgery Center on behalf of Harold Folley, for requiring Mr. Folley and all patients to abandon their Living Wills or other Right to Die arrangements. Attorneys are: ACLU Cooperating attorney Rob Schwarz and ACLU staff attorney George Bach.

**PRIVACY RIGHTS:** ACLU of New Mexico filed suit in May 2005 against Albuquerque Public Schools for unlawful dissemination of students' contact information to military recruiters without proper and timely notice to parent or students about their rights to opt out. The case is currently pending in federal court. Attorneys are: ACLU Cooperating attorney Karen Meyers, Co-Legal Director Maureen Sanders and ACLU staff attorney George Bach.



Editorial cartoon by Trevor of the Albuquerque Journal.

## Albuquerque "Nuisance" Ordinances

The City of Albuquerque is attempting to re-write criminal law into the nuisance-abatement code:

1. The DWI Seizure Ordinance permitted the City to seize a vehicle permanently upon first *arrest* for DWI, not conviction. The vehicle is deemed a "nuisance." ACLU Cooperating attorneys Sam Rashied, Roger Smith, Paul Kennedy and ACLU staff attorney George Bach filed suit against the City on May 11, 2005. State district court Judge Theresa Baca entered a permanent injunction against the ordinance, citing due process problems on August 9, 2005.
2. A Red Light Camera Ordinance was passed in March 2005 which makes Albuquerque a maze of Orwellian monitoring. Staff attorney George Bach and ACLU Cooperating attorney Alexandra Freedman Smith filed suit against the City on May 11, 2005. A hearing on the merits is scheduled for September 7, 2005.
3. A "No Cruising" Ordinance passed City Council in May 2005. This would allow APD to set up "traffic control points" at their whim and cite people for cruising (another alleged "nuisance") if they drive past this point more than three times in two hours. The City Council must next designate "No-Cruising" zones. We are monitoring the Council's action.



# ACLU of New Mexico Events Calendar



Judith Krug, Director of the American Library Association's Office for Intellectual Freedom

## Banned Books Week is September 23 - October 1, 2005

No person is more closely identified with libraries and the cause of intellectual freedom than Judith F. Krug. Director of the American Library Association's Office for Intellectual Freedom since it was founded in 1967, Judith Krug continues to remain unparalleled in her commitment to educating the public about their rights to free access of all expressions and ideas. Krug helped found Banned Books Week, an annual celebration of the right of individuals to choose their own reading materials. Now entering its 22nd year, the program serves to raise awareness about censorship and remind Americans that our freedoms can be fragile if we're not vigilant in protecting them. Krug is a noted speaker and author in the area of intellectual freedom.

On Saturday September 24, she will be kicking off Banned Books Week in Albuquerque at the downtown Main Library, on Copper and 5th, from 10:30 - 12:30. Krug will be the keynote speaker in a panel discussion on censorship of literature, the Patriot Act, and Media Reform. She will be speaking at a Page One reception at 7:00 pm that evening. For a complete listing of events go to our website at [www.aclu-nm.org](http://www.aclu-nm.org).

Co-sponsors & supporters of the event include: the ACLU of New Mexico, Bookworks, Crosswinds Weekly, KUNM Public Radio, the New Mexico Library Association, the New Mexico Media Literacy Project, Page One Books, and the University of New Mexico.

## ACLU of New Mexico Legal Observer Project

Two trainings are currently scheduled at New Mexico State University (NMSU) and signs will direct you to the proper meeting space:

8:00 p.m. Wednesday, 8/31/05, at the NMSU Faculty Senate Chambers, Garcia Annex Building

6:00 p.m. Wednesday, 9/7/05, at the NMSU Corbett Center Student Union

A complete listing of future trainings can be found at [www.vigilantewatch.org](http://www.vigilantewatch.org)

## ACLU of New Mexico Southwest Chapter Annual Meeting

Save the date! Saturday October 22, 5:00 p.m. at the First Church of Whats Happening on 7th and Arizona in Silver City. The keynote speaker is George Bach, Staff Attorney for the ACLU of New Mexico.

## ACLU of New Mexico Northern Chapter Bi-annual Meeting

Stay tuned for more information regarding this fall event. When details are finalized the information will be posted to the website.

## ACLU of New Mexico Annual Bill of Rights Dinner

December 9, 2005 - Save the date! Details in the 2005 Fall Torch edition.



ACLU ARIZONA LEGAL OBSERVERS APRIL 2005

## ACLU Legal Observer Project

The ACLU of New Mexico is organizing concerned individuals to keep an eye on vigilante groups that are forming on the U.S./Mexico border this October.

The ACLU will train teams of volunteer "legal observers" to follow, photograph, and videotape vigilante groups who are expected to begin hunting for undocumented immigrants on the border in October. The legal observers will gather evidence for possible civil rights lawsuits.

For more information go to [www.vigilantewatch.org](http://www.vigilantewatch.org)

NON PROFIT  
ORGANIZATION  
U.S. POSTAGE  
PAID  
ALBUQUERQUE, NM  
PERMIT NO. 59

AMERICAN CIVIL LIBERTIES UNION  
OF NEW MEXICO  
P. O. BOX 80915  
ALBUQUERQUE, NM 87198  
T/505-266-5915  
WWW.ACLU-NM.ORG