



# THE TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

PAGE 2 Executive Director's Message: Supreme Court Decisions; Border Office Opens

PAGE 3 ACLU in the Courts

PAGE 4 2007 Pride Celebrations

PAGE 5 June 26th Day of Action in Washington, DC

PAGE 6 Legacy Challenge; Know Your Rights Column

PAGE 7 Profile: Lynn Goldstein; Upcoming Events

PAGE 8 Web Site Features; Membership & Donation Form

## 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!

## NSA Decision Puts Dangerous Tool Back in Administration's Hands

*Peter Simonson, Executive Director, ACLU of New Mexico*

In a 2-1 decision, a federal court of appeals on July 6, 2007 dismissed a legal challenge to the Bush administration's warrantless wiretapping program. The American Civil Liberties Union brought the suit on behalf of prominent journalists, scholars, attorneys and national nonprofit organizations who say that the unchecked surveillance program disrupts their ability to communicate effectively with sources and clients. Albuquerque's own Nancy Hollander, a civil rights attorney, was a plaintiff in the suit.

The court's decision restores a shroud of secrecy to the spying practices of a presidential administration that makes no secret of its disdain for constitutional constraints on its power. Unless the case goes up to the U.S. Supreme Court, Americans may forever more live with the nagging doubt that their emails and phone conversations are being arbitrarily monitored.

The one saving grace to the court's decision is that it did not overturn a lower court finding that the "Terrorist Surveillance Program" (TSP) was unconstitutional, but instead limited itself to the question of whether or not the plaintiffs had a reasonable basis for bringing the lawsuit. Two of the three judges accepted the NSA's brazen proposition that the plaintiffs



could not establish legal standing because they could not prove that they were harmed by the TSP—even though proof was unobtainable because the NSA had invoked the State Secrets Doctrine to conceal information about who was being monitored!

*Continued on page 4*

## The Time Has Come! Domestic Partner Rights & Responsibilities Act

After losing the domestic partnership vote by only one vote in the New Mexico Senate during the last legislative session, we are committed to working with Equality New Mexico and other allies to ensure the votes necessary to ensure gay, lesbian and unmarried heterosexual partners are guaranteed the legal protections they need to secure their relationships and families.

There are a variety of protections available through domestic partnership, including employment benefits and health care protections. Domestic partners may gain these protections:

- Use of sick or paid leave to care for a partner or a partner's child
- Health insurance coverage for employees' domestic partners and their children

- Continued health insurance coverage for domestic partners and children of retired and deceased state employees
- Access to hospital visitation and medical decision making
- Security from being forced to sell their homes to pay high nursing home bills

As part of this commitment, we have hired a full-time organizer to assist in executing a field plan targeting key legislators throughout the state. Having spent many late nights following the bill in the Roundhouse, Jennifer Rose now joins the ACLU of New Mexico staff as the LGBT Field Organizer through the end of the upcoming legislative session.

But our effort does not stop there.

We need YOU to show your support for this legislation. Please email Jennifer Rose if you are interested in helping us identify allies in your community or by contacting your legislator in support of this bill: [jrose@aclu-nm.org](mailto:jrose@aclu-nm.org).

**ACLU OF NEW MEXICO  
BOARD OF DIRECTORS**

Gary Mitchell, *President*  
 Theo Crevenna, *Vice-President*  
 Mark Ayers, *Secretary*  
 Kevin Hoover, *Treasurer*  
 Chantel Reynolds, *National ACLU  
Board Representative*  
 John Briscoe  
 James Chavez  
 Frank Clinard  
 Nick Engquist  
 Peter Falley  
 Stanley Hordes  
 Tova Indritz  
 C. Paulina Iñigo  
 Patricia Jones  
 Sharon Kayne  
 Ellen Lacayo  
 Gene Lindsay (Emeritus)  
 Joe Sackett  
 John Salamack  
 Becca Shreve  
 Joan Spencer  
 Jack Steadman  
 Trish Steindler  
 Kelly Stout  
 Hollis Walker

**ACLU OF NEW MEXICO  
STAFF**

Peter G. Simonson  
*Executive Director*  
 Kelly Camlin Shingler  
*Associate Director*  
**LEGAL DEPARTMENT**  
 George Bach  
*Staff Attorney*  
 Brendan Egan  
*Law Clerk*  
 Joachim B. Marjon  
*Law Clerk*

**COMMUNICATIONS DEPARTMENT**

Whitney Potter  
*Communications Manager*  
 Jennifer Rose  
*LGBT Field Organizer*  
 Daniel Williams  
*Communications Intern*

**DEVELOPMENT DEPARTMENT**

Amy Laugelli  
*Development Director*  
 Scott Bryan  
*Administrative Assistant*

**REGIONAL OFFICES**

Maria J. Nape  
*Director, Southern Regional Office*  
 Diane Wood  
*Director, Northern Regional Office*  
 Elida Nuñez  
*Administrative Assistant*

**Executive Director's Message**

**Supreme Court Decisions**

Two momentous, and seemingly inconsistent, decisions were handed down by the US Supreme Court in recent days--both of them concerning free speech. On the one hand, the Court struck down a federal ban on campaign ads that refer to a specific candidate for political office and that are televised during a 30-day "black-out" period prior to a primary election. On the other, it upheld disciplinary action by a public school against a student for displaying a banner that read "Bong Hits 4 Jesus" at an off-campus parade.

Writing for the majority in the campaign finance ruling, Justice Roberts opined, "Discussing of issues cannot be suppressed simply because the issues may also be pertinent in an election...Where the First Amendment is implicated, the tie goes to the speaker, not the censor."

Evidently Roberts' enthusiasm for the First Amendment subsides when the rights of youth are involved and the subject matter is drugs—even silly, ambiguous comments about drugs like "bong hits for Jesus." Indeed, National ACLU Legal Director Steve Shapiro said the court's decision in the case amounted to a "drug exception" to free speech.

At its core, the disparity in the two free speech decisions would seem to indicate a belief that government has a more compelling interest in keeping kids from talking about drugs than it does in moneyed politics corrupting democracy.

The campaign finance reform ruling wasn't without civil liberties merit, however. Organizations like the ACLU shouldn't be banned from broadcasting television ads that bear the name of a Congressional delegate, regardless of whether or not the delegate is a candidate in an upcoming election.

Imagine how our hands could be tied if weighty legislation like the Patriot Act were moving through Congress during the "black out" period. No TV ads urging Americans to "contact Senator so-and-so, tell him to vote 'no' on the Patriot Act" would be allowed. Indeed, the majority party in Congress could even time its push on controversial legislation to coincide with a blackout precisely to avoid opposition in the media.

The June 25<sup>th</sup>, 2007 rulings left little doubt about the ideological direction the court will take and how significantly civil rights jurisprudence will be altered.



Peter Simonson, Executive Director



**SAVE THE DATE!**

Saturday, December 1st, 2007

**ACLU of New Mexico Annual Bill of Rights Dinner**

Albuquerque Marriott (I-40 and Louisiana)

Contact the Development Department at (505) 266-5915 or supportus@aclu-nm.org or visit aclu-nm.org for more information.

**Southern Regional Office Opens on the Border**



Maria Nape, Director, Southern Regional Office

The American Civil Liberties Union of New Mexico has named Maria Nape as the Director of the new ACLU office in Las Cruces which will defend civil rights of immigrants' and citizens' in the border region. Nape has a law degree and years of experience advocating for the rights of migrant farmworkers.

The Southern Regional Office of the ACLU of

New Mexico will work in tandem with the National ACLU Immigrants' Rights Project and support the border rights work of ACLU affiliates in Texas, Arizona, and San Diego. The office is part of a state-wide expansion of the ACLU of New Mexico's facilities and a National ACLU plan to raise the capacity of ACLU affiliates in the middle part of the country to equal that of affiliates on the wealthier and more populous coasts.

Prior to joining the ACLU, Maria Nape spent five years advocating for the rights of migrant farmworkers as Director of the Migrant Farmworker Project at Legal Services Organization of Indiana and as Executive Director of the Farmworker Coordinating Council of Palm Beach County, Florida. She received her law degree from Indiana University and most recently served on the faculty of Florida Atlantic University's School of Public Administration.

"I am thrilled to head up such an exciting and timely initiative for the ACLU," Nape said. "The intensification of law enforcement on the border and growing reactionary attitudes towards immigrants around the country make the ACLU's new border rights office a vital effort. I look forward to learning from other border groups how we can complement their work and help create an effective civil rights presence throughout the border corridor."

To learn more about the ACLU's work around immigrants' rights and ways to get involved, visit [aclu-nm.org](http://aclu-nm.org) and [aclu.org/immigrants](http://aclu.org/immigrants).



## Summer 2007 Legal Report

George Bach, Staff Attorney, ACLU of New Mexico

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 last several months have brought great success in the litigation arena. 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).

### Outstanding Successes:

#### **Immigration Detainees at Regional Correctional Center in Albuquerque**

Staff Attorney George Bach and Law Clerk Brendan Egan continue to meet with immigration detainees at the Regional Correctional Center (RCC) in Albuquerque, many of whom had been incarcerated for years at the behest of Immigration and Customs Enforcement (ICE). Federal law requires that, absent limited exceptions, immigration detainees be released within six months of their final removal (deportation) order. Most of the inmates with whom ACLU of New Mexico interact are Cuban or Chinese, who will most likely never be removed. Bach entered his appearance in over a dozen of the petitions for writ of habeas corpus filed by the detainees and helped obtain the release of several Chinese immigrants at RCC and several Cubans who were detained for excessively long periods of time.

Along with attorney Brandt Milstein, Bach and Egan are looking into complaints regarding poor conditions at the facility.

ACLU Immigrant Rights Project Attorney Judy Rabinowitz lent a great deal of advice on the handling of these cases. Bach also communicated with the Seattle Public Defender's Office, whose litigation previously resulted in the "six-month" rule regarding immigrant detention. Bach and Egan continue to investigate any complaints of prolonged detention at RCC and are currently representing a Liberian man who has been incarcerated by ICE for approximately eight months.

#### **New Mexico State Football Anti-Muslim Discrimination**

The ACLU of New Mexico received a favorable settlement in its lawsuit against New Mexico State University (NMSU) head football coach Hal Mumme on behalf of four Muslim players who claim they were victims of religious discrimination. The parties agreed to keep the amount of the settlement confidential for six months. The settlement brings to a close a lawsuit that was filed on August 28, 2006 and that was set for a jury trial beginning on June 25, 2007. Three Muslim football players, Mu' Ammar Ali and twin brothers Anthony and Vincent Thompson, brought the suit alleging that they were discharged from the Aggie football team because of their religion. An additional Muslim player, Jacob Wallace, joined the case on January 17, 2007.

### New Litigation:

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

Cooperating attorney Joleen Youngers, along with Bach, filed this case against a Las Cruces mall that was prohibiting a disabled man from utilizing a "Segway"

motorized device to access the mall. John R. Funk suffers from severe scoliosis and spinal stenosis and 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. After the lawsuit was filed, the mall agreed to permit Mr. Funk in until the case is ultimately resolved. Parties are currently in settlement negotiations.

#### **State v. Martinez Amicus Brief**

This case involved a pregnant woman who was charged with "child endangerment" for ingesting cocaine two days prior to the birth of her child. On appeal, the state Court of Appeals rejected the State's argument regarding the charge and dismissed it. The State appealed to the New Mexico Supreme Court. Bach, Egan, Co-Legal Director Maureen Sanders, and the ACLU's Women's Rights Project wrote a "friend of the court" brief arguing that the prosecution of Ms. Martinez runs afoul of the New Mexico Equal Rights Amendment, because only women can be charged for "drug use" in this manner. After briefing and oral argument, the Supreme Court rejected the State's appeal.

#### **Virgil Beagles**

Co-Legal Director Phil Davis, Cooperating Attorney Mike Hart, and Bach filed this suit in May 2007 on behalf of Virgil Beagles, a Roswell Democratic activist who was prohibited from accessing the New Mexico Senate by Senator Rod Adair. On February 16, 2007, Adair verbally accosted Beagles as he sat in a hallway of the Capitol building, yelling and pointing his finger at Beagles and demanding that Beagles exit the building. At Adair's insistence, Senate security prohibited Beagles from entering the Senate side of the Roundhouse and from attending committee hearings on bills that were of special interest to him.

### Public Record Request:

#### **New York Police Department (NYPD) Monitoring of Peace Activists in NM**

Bach and Egan have filed public record requests on behalf of dozens of New Mexico peace protestors who believe they may have been monitored by NYPD since 9/11. Recent media stories indicate that, after 9/11, NYPD apparently engaged in extra-jurisdictional spying and infiltration in cities across the country, including Albuquerque.

#### **ICE Operation Return to Sender**

Bach and Egan submitted a public record request to the Homeland Security Department regarding recent Immigration raids in New Mexico pursuant to "Operation Return to Sender." Immigrant organizations reported systemic misconduct on the part of Immigration and Customs agents, including unlawful searches of homes without warrants.

### Updated Information on Previously Reported Litigation:

#### **Domestic Partnerships**

Co-Legal Director Maureen Sanders and Bach filed suit on behalf of three same-sex couples over retiree

*Continued on page 8*



### **ACLU OF NEW MEXICO LEGAL PANEL**

Reber Boulton  
Phil Davis  
Jane Gagne  
Maureen Sanders

### **THANK YOU**

The ACLU of New Mexico would like to thank Shad Goldstein, for volunteering her time to the legal intake program and Daniel Williams for volunteering as the Communications Intern this summer. Your efforts make a real and positive impact on the lives of New Mexicans.

### **THE TORCH SUMMER 2007 VOLUME 42, NUMBER 2**

Published quarterly by the American Civil Liberties Union of New Mexico. Please send any comments, questions or article submissions to Whitney Potter, Editor and Communications Manager.

P.O. BOX 566  
Albuquerque, NM 87103  
Tel: (505) 266-5915  
Fax: (505) 266-5916  
[www.aclu-nm.org](http://www.aclu-nm.org)

Membership is \$20 and up. *The Torch* is a benefit of membership. Incorrectly addressed mail and address corrections should be sent to the above address.

Printed in the United States.



*Buster, one of our favorite civil liberties guard dogs!*



## NSA Decision

*Continued from page 1*

“Our Congressional delegates cannot continue to abide by the Administration’s arrogant flouting of our laws. They must step up and get answers before the NSA decision adds more civil rights casualties to this reckless and un-American war on terror.”



### WATCH ACLU TV

Do you live in Santa Fe? If so, tune in every Friday at 7 PM to Channel 16 (Santa Fe Community TV) for The ACLU Freedom Files.

To find out more or to purchase The ACLU Freedom Files, visit [www.aclu.tv](http://www.aclu.tv)

In other words, the plaintiffs could not challenge the Bush administration’s secret spy program because whatever rights violations they had suffered were, by the Administration’s unilateral determination, state secrets.

The court’s decision puts a dangerous tool back in the hands of an administration that time and time again has proven it cannot be trusted with such power. This week, in fact, evidence surfaced that Attorney General Alberto Gonzalez lied to Congress about abuses under the USA Patriot Act in order to make the case for the Act’s re-authorization in 2005. “There has not been one verified case of civil liberties abuse [under the Patriot Act],” he told the Senate Select Committee on Intelligence in April of 2005.

Internal FBI documents show that during the three months prior to his testimony, Gonzalez received at least half a dozen reports of legal or procedural violations that included unauthorized surveillance, an illegal search of personal property, and a case in which an Internet firm illegally handed over a compact disc with data that the FBI was not entitled to collect.

But Americans have come to expect these kinds of revelations about the government’s abuse of power. Just in 2007 we have learned that:

- Attorney General Gonzales advised President Bush to shut down an internal review of the TSP due to the possibility that his own actions would be scrutinized;
- President Bush claimed the unprecedented authority to search Americans’ mail, without a warrant, in a “signing statement” attached to a statute that expressly prohibits opening First Class mail without a warrant;
- A report by the Justice Department Inspector General found widespread abuse of the “national security letter” provision of the USA Patriot Act. (The FBI issues NSLs, without

judicial review, to obtain private telephone, e-mail, financial, and consumer records).

The only thing now standing in the way of the Administration’s continued abuse of its surveillance authority is Congress. On June 27, Senate Judiciary Committee Chairman Patrick Leahy issued subpoenas to the White House, the Vice President, the Justice Department and National Security Council for documents about warrantless surveillance. The deadline for compliance was July 18. One day before the deadline the White House asked for an extension to come up with the documents, claiming it would not have been able to “come close to completing” a document review by the initial deadline. Senator Leahy granted the request for an extension saying, “I hope the White House uses this additional time constructively to finish gathering the relevant information and then works with us in good faith on ways to provide it so that we will have the information we need to conduct effective oversight at long last.”

The Committee is expected to issue a new compliance date soon.

It’s been a year and a-half since we learned that our own government was secretly tapping our phones and reading our emails. In that time, the Senate Judiciary Committee has asked the Bush administration nine times for information about the NSA’s illegal spying. The committee has now asked for the tenth time and has rightly chosen to use its subpoena power to compel an answer.

If a federal court won’t protect us from the government’s arbitrary monitoring of our emails and telephone calls then Congress must. Our Congressional delegates cannot continue to abide by the Administration’s arrogant flouting of our laws. They must step up and get answers before the NSA decision adds more civil rights casualties to this reckless and un-American war on terror.

## Grand Presence at 2007 PRIDE Celebrations

This summer, several Lesbian, Gay, Bisexual, Transgender (LGBT) Pride celebrations took place around the state. These events are organized to educate, commemorate, and celebrate the LGBT culture, and advocate for civil rights.

The ACLU of New Mexico had floats in the parades and information tables at the festivals. Thank you to all who helped make our presence at 2007 Pride a success!



Above: Diane Wood, Director of the Northern Regional Office of the ACLU of New Mexico & Representative Mimi Stewart, sponsor of the Domestic Partner Rights & Responsibilities Act.



Above: Steve Marvin, ACLU-NM Northern Chapter President, Drew Renner, Northern Chapter Board Member, Whitney Potter, ACLU-NM Communications Manager, & Diane Wood at Santa Fe Pride on the Plaza. Left: Steve Marvin, Patricia Steindler, Member of the ACLU-NM Board of Directors, & Judith Justice, ACLU Member, at the ACLU information table on the Plaza.



Left: Kevin Hoover, Treasurer of the ACLU-NM Board of Directors, Daniel Williams, President of the ACLU-NM Youth Advisory, Activism, & Advocacy Board, & George Bach, ACLU-NM Staff Attorney.

Below: ACLU-NM Staff, Board Members & Volunteers ride in the Albuquerque Pride Parade.







## Day of Action: NM Delegation Rally on Capitol Hill

Nick Engquist, Co-Chair, ACLU-UNM Undergraduate Chapter

On June 26<sup>th</sup>, thousands of individuals representing every state in the nation flew, drove, and bussed into Washington D.C. Our goal: to argue for the restoration of the ancient right of habeas corpus guaranteed by our Constitution but suspended by our government in December of 2006; make the case for revision of the Military Commissions Act and adoption of the Restore the Constitution Act; and forever close the awful bloodstain on our national consciousness at Guantanamo. The New Mexico delegation came in force and ready to lobby our members of Congress.

We met with every member of New Mexico's Congressional delegation minus Congressman Steve Pearce. Congresswoman Heather Wilson hosted us for a brief but candid discussion where we discussed the very difficult issue of ensuring our citizens remain safe while safeguarding essential civil liberties. She readily admitted there are problems with the processes established by the Military Commissions Act with detainee rights, but came far from admitting torture or unnecessary suspension of rights to inmates had occurred through adoption of the new processes. It was a remarkable discussion of differing viewpoints on how to protect America's greatness, and hopefully in the end the Congresswoman will sponsor much needed changes to the Military Commissions Act including: allowing detainees access to secret evidence presented against them in the Military Commissions proceedings and a chance to cross-examine, striking torture evidence from being admitted into trials, allowing private lawyers to represent the inmates instead of only government entities, and restore critical writs of habeas corpus to the accused.

Our main difficulty came at a very candid moment when I suggested we close Guantanamo and move the inmates to Fort Leavenworth where they would be subject to our judicial system. At this, Congresswoman Wilson asserted that some of those released had been recaptured in Iraq shooting at American soldiers.

Then she pondered what we thought should happen to inmates against whom we didn't have a perfectly solid case. I articulated we shouldn't hold a single inmate in prison without having evidence against them that would stand up in an American court of law. At this, I could tell we had reached an impasse, but hopefully her very detailed notes will spark an interest in the human rights issues present in that outsourced prison. We made the case, now it is up to her to follow her conscience.

Later in the afternoon we met with Senator Bingham's staff and found a real ally. Not only does the Senator support every measure we inquired about, but in most cases he had co-sponsored the legislation. So it was as well when we met later on with Congressman Tom Udall. It isn't enough that we support these extremely vigilant allies- we must urge them to push forward these bills out of committee and get them to the floor for a vote. Talk is cheap while our Constitution is ripped to shreds.

Later, in an especially hot Washington D.C. afternoon, we attended an amazing rally at the upper Senate Park, which used the Capitol building as a backdrop. Thousands of people attended of varying ages and walks of life and listened to speeches from every part of the American landscape. Some prominent voices included members of Congress, Senators, spiritual leaders, tortured POW's from foreign conflicts, and National ACLU's Executive Director Anthony Romero. There we stood with one voice: we are a nation that doesn't torture, values all life equally, and respects the ancient rights guaranteed by our Constitution. And we came to demand them back.

We are presented here with a terrific opportunity to right the wrongs of the past few years. Just days after our Day of Action, the Supreme Court, in an extremely rare move, decided to reconsider habeas petitions from Guantanamo inmates later in the year. Let's help Habeas find its way back home in a first step in restoring our country's greatness.



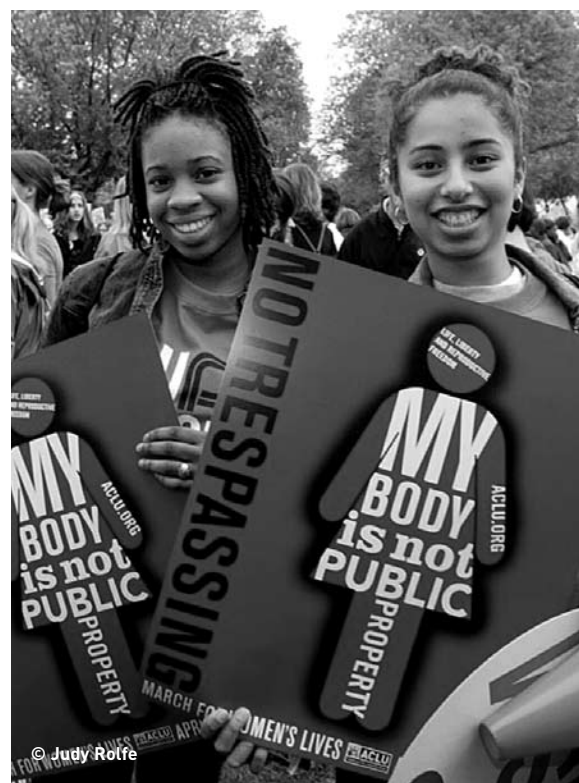
Nick Engquist in front of the White House

### TAKE ACTION



You can add your own voice today, by calling your Members of Congress. And for more information about habeas corpus and the Military Commissions Act of 2006, go to:

[www.aclu.org/mca](http://www.aclu.org/mca)



### ARE YOU THE PARENT OF A STUDENT ACTIVIST?

Has your son or daughter stood up for:

- RACIAL JUSTICE  EQUALITY  FREE SPEECH
- TOLERANCE  HUMAN RIGHTS

If so, please contact us about the **ACLU STUDENT ACTIVIST SCHOLARSHIP PROGRAM**. 15 high school seniors from across the country will each be awarded a \$5,000 college scholarship for their dedication to preserve our civil liberties.

Those students will then become part of an elite "class" of student activists, whose talents and passion will be fostered by the ACLU National office.



#### CONTACT US FOR MORE INFORMATION

ACLU of New Mexico Communications Department  
(505) 266-5915 ext. 1003 or [wpotter@aclu-nm.org](mailto:wpotter@aclu-nm.org)

“It is great news that the **ACLU LEGACY CHALLENGE**, in which I had the good fortune to participate, has been renewed for two years. Your contribution to the Foundation, matched by Mr. Wilson, will help to ensure the continuous ACLU vigilance and protection of civil rights. It is very much needed. Please consider what for you is a hefty contribution.”

Theo R. Crevenna  
Vice-President, ACLU of New Mexico Board of Directors

See page 6 for details on the **ACLU LEGACY CHALLENGE** »

“When I learned of the Legacy Challenge, I was pleased to know that whatever I contributed would be matched. ACLU was already in my will, but I had not made that fact known. The decision to leave something to the ACLU was one that my son and I discussed—I wanted to be sure that he understood my intention and that he was comfortable with it. Our conversation was very meaningful, as we share values, and although it’s not easy to talk about dying, we were both happy to talk about what is important to both of us, and what we want to contribute to the world.”

Patricia Steindler  
Member, ACLU of New Mexico  
Board of Directors

## THE LEGACY CHALLENGE: Defend Freedom Today with Your Gift for the Future

MaryClaire Brooks, Sr. Gift Planning Officer, National ACLU

You may have seen the mailings or even read the “Legacy of Liberty” brochure. The news that a major donor in New York had offered to make a cash donation of up to 10% of any bequest to the ACLU Foundation included in or added to a will during 2005 and 2006 was exciting indeed. Equally newsworthy, however, is the fact that 19 generous ACLU donors here in New Mexico notified us to say they were leaving almost \$2.5 million to the ACLU Foundation through planned gifts. As a result, the ACLU received over \$58,000 in matching donations—funds that were put to immediate use—from the Robert W. Wilson Charitable Trust.

We would like to extend our heartfelt thanks to every New Mexican who joined in that effort. Their foresight in planning for a future gift has helped to ensure that the ACLU will always be able to defend the Constitution and the Bill of Rights. What’s more, in providing for future support of the ACLU, each of those individuals enabled us to receive a matching gift that we put to work right away.

The news gets better: We are thrilled to report that the Legacy Challenge has been renewed for another two years, with a retroactive start date of June 1, 2007.

Now, when a donor notifies us for the first time that they’ve established a planned gift, the Robert W. Wilson Charitable Trust will once again make a cash donation of up to 10% of the future gift’s value, with a maximum match of \$10,000.

How does it work?

1. Complete your bequest provision for the ACLU Foundation in your will or trust.
2. Tell us about it. (Matching forms are available from our office, online or at your local affiliate.)
3. A cash donation of up to \$10,000 will be made by the Robert W. Wilson Charitable Trust.

For answers to any questions you may have, please call or email our Gift Planning Officers. They can provide you with all the information you need for choosing the gift that is right for you. Or, if you prefer, visit [www.legacy.aclu.org](http://www.legacy.aclu.org) for estate planning checklists, gift calculators, how-to’s, articles, and more information about the Legacy Challenge itself.

To reach the ACLU Planned Giving staff, please e-mail [legacy@aclu.org](mailto:legacy@aclu.org) or dial toll-free: 877-867-1025.

## Know Your Rights

### How Many Senators Does it Take to Pass Legislation?

Sanford Brickner

Sanford Brickner



For the last three years Sanford Brickner has been writing a weekly column for the Santa Fe New Mexican entitled “Know Your Rights.”

Mr. Brickner developed a commitment to civil liberties many years ago, when he was a tax attorney in Southern California. He has since retired from practicing law and now teaches skiing in Santa Fe.

Mr. Brickner has supported the ACLU of New Mexico for 24 years.

Last week in the Senate, 48 Democrats and 4 Republicans wanted to pass legislation setting a timetable to start withdrawing American troops from Iraq. But they were unable to do so.

There are 100 senators in Congress. Only a majority of the Senate is needed to pass legislation. So why were 52% of the Senate unable to pass its bill? Because of something called a filibuster.

If a senator is opposed to any proposed action by the Senate, he could debate the issue for an unlimited period of time, thus never permitting a vote on the issue. This is called a filibuster.

During the 1930s, Louisiana Senator Huey P. Long used the filibuster against bills that he thought favored the rich over the poor.

Back in 1946, when New Mexico’s Democratic Senator Dennis Chavez proposed a bill to prevent discrimination in the work place, his bill was filibustered for weeks and he finally had to withdraw it.

And in the 50’s and 60’s, Southern Democratic senators filibustered to block civil rights legislation, including anti-lynching legislation.

The Senate does have a rule, Rule 22, which sets forth a procedure, known as cloture, which permits 60 senators to cut off debate and force a vote on the proposed legislation, thus ending a filibuster. But it is generally difficult to get 60 senators to be willing to cut off the debate of their fellow senators.

In current practice, senators don’t actually have to filibuster to defeat a vote on legislation they oppose. Only 41 senators need to state that they intend to filibuster. So last week, although 52 senators wanted to

set a timetable for ending the war in Iraq, it took only 41 senators to threaten a filibuster in order to defeat the proposed legislation.

In 2005, when Bill Frist, then the Republican Senate Majority Leader, was frustrated by Democrats threat to filibuster to prevent the senate from approving President Bush’s judicial appointments, Frist threatened to use a complicated multi-step procedure to cut off debate and allow a majority vote to approve the appointments.

But is such a complex procedure really necessary?

There is no constitutional right to filibuster. Only a simple majority of a past senate was needed to enact Senate Rule 22, requiring 60 of the 100 senators to stop a filibuster.

Some scholars believe that if a simple majority of a past senate can enact a rule, a simple majority of the current senate ought to be able to change it.

If the 52 senators who voted to set a deadline for withdrawal of our troops from Iraq felt so strongly about it, why were they intimidated by the threat of a filibuster? Why didn’t they just vote to change the rules and permit a simple a majority of the senate to block it? Could it be that they were more interested in preserving their own right to filibuster in the future than they were to start withdrawing our troops in 120 days?

This is column 170 published July 27, 2007. All prior columns can be accessed and searched at:

[web.mac.com/sanfordbrickner](http://web.mac.com/sanfordbrickner)



## Member Profile



### Lynn Goldstein, Dedicated ACLU Member Since the 1970's

*Hollis Walker, ACLU of New Mexico Board Member*

It's difficult to pin down Santa Fe ACLU of New Mexico supporter Lynn Goldstein's top civil liberties concerns; her list goes on and on. Establishing equal rights for women, minorities, gays and lesbians. Overturning the Patriot Act. Threats to habeas corpus. Preserving free speech guarantees.

"Maybe the biggest issue is the stacking of the Supreme Court and federal bench," she says. "The only branch of government with a mandate to protect our civil liberties is the judiciary, and now we've got one that's almost in collusion with the executive branch."

A Denver native, Goldstein lived in several New Mexico cities, Massachusetts and California before retiring and moving to Santa Fe permanently in 2003. During her career, she worked as an English teacher, state government official and textbook writer and editor. She first joined the ACLU in the 1970s, but her early volunteer efforts focused on civic groups, including the League of Women Voters.

Since retiring and returning to the City Different, Goldstein has served the boards of three arts organizations. She's also become a major donor of the ACLU of New Mexico, and in 2005 hosted a Constitutional salon and fundraiser, facilitated by ACLU of New Mexico board member Jack Steadman, at her home. Education, she believes, is the key to getting more Americans involved in protecting civil liberties.

Her efforts on behalf of the ACLU of New Mexico are fueled not just by her increasing concerns about civil liberties, but also by the achievements of the New Mexico affiliate.

"I'm so impressed with what we're doing," she says. "[Executive Director] Peter Simonson is really out there, on the radio and in the papers. Anyone who is not informed about ACLU in New Mexico is really not paying attention. I'm also very excited about our office here in Santa Fe."

Goldstein confesses to using her membership in the ACLU as a social ice-breaker. Sort of.

"There still seems to be this stigma about the ACLU," she explains. "So when I'm feeling a little perverse at a party or gathering, I tell people I'm a member. It's an attention-getter," she says, laughing.

But Goldstein says that stigma is a good thing.

"That's part of its power. People wouldn't be fearful or skeptical of the ACLU if it weren't powerful. This isn't country club stuff. This is the trenches."

### 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.

## ACLU-NM CHAPTERS

The ACLU of New Mexico has a number of vibrant, active, and effective chapters throughout the state. Find a chapter in your area below. Questions? Contact Kelly Camlin Shingler, ACLU of New Mexico Associate Director: [kshingler@aclu-nm.org](mailto:kshingler@aclu-nm.org) or call (505) 266-5915 ext. 1005.

#### MCKINLEY COUNTY CHAPTER

Meetings are held the second Thursday of each month at 7 PM at the Red Mesa Center in Gallup. Contact Ellen Lacayo, Chapter President: [ellelac@cnetco.com](mailto:ellelac@cnetco.com) or (505) 722-6084.

#### NORTHERN NEW MEXICO CHAPTER

Meetings are held the second Saturday of each month at 10 AM at the Northern Regional Office of the ACLU of New Mexico (621 Old Santa Fe Trail, Suite 16, Santa Fe). Contact Steve Marvin, Chapter President by email [smarvin43@aol.com](mailto:smarvin43@aol.com) or call (505) 982-8181.

#### SOUTHWESTERN CHAPTER

Meetings are held every third Thursday of the month at 6 PM in the Silver City Library on College Street. Contact Peter Falley, [pfalley@signalpeak.net](mailto:pfalley@signalpeak.net)

#### UNM LAW SCHOOL CHAPTER

Contact Joachim Marjon, Chapter Co-President: [marjonjo@law.unm.edu](mailto:marjonjo@law.unm.edu) or Pamela Hernandez, Chapter Co-President: [hernanpa@law.unm.edu](mailto:hernanpa@law.unm.edu)

#### UNM CHAPTER

Contact Nick Engquist, Chapter President: [sauruman@unm.edu](mailto:sauruman@unm.edu)

#### YOUTH ADVISORY, ACTIVISM, & ADVOCACY BOARD

Contact Daniel Williams, YAAAB President: [nunn08@gmail.com](mailto:nunn08@gmail.com)

*A large portion of the work of the ACLU of New Mexico involves informing the public through media and community events about the importance of preserving individual rights and liberties. Visit [aclu-nm.org](http://aclu-nm.org) for more information on upcoming ACLU-NM events around the state.*

### HELP WANTED

Much of the ACLU of New Mexico's work to protect civil liberties is carried out in the legislative halls of our Capitol in Santa Fe. We maintain a strong presence in the Roundhouse. Through lobbying and grassroots organizing efforts we directly influence more than 100 bills each regular session that have civil liberties implications.

If you are interested in participating in your community as part of the ACLU of New Mexico's "Legislative Buddy" program, please contact Diane Wood, Director of the Northern Regional Office in Santa Fe: (505) 982-8181 or [dwood@aclu-nm.org](mailto:dwood@aclu-nm.org).



### CONTACT THE ACLU OF NEW MEXICO

American Civil Liberties Union of New Mexico  
PO BOX 566  
Albuquerque, NM 87103  
Telephone: (505) 266-5915  
Fax: (505) 266-5916  
Email: info@aclu-nm.org

Northern Regional Office  
Santa Fe, NM  
Telephone: (505) 982-8181  
Fax: (505) 982-3391

Southern Regional Office  
Las Cruces, NM  
Telephone: (505) 527-0664  
Fax: (505) 527-0111

Visit us on the web:  
[www.aclu-nm.org](http://www.aclu-nm.org)



## Legal Report

Continued from page 3

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 discovery phase of the litigation is in process.

### New Mexico County Jails: Statewide Standards and Legislative Collaboration

Co-Legal Director Maureen Sanders, cooperating attorneys Peter Cubra and Nancy Koenigsberg, and Bach have begun discussions with representatives from the Association of Counties, the insurance pool and lobbying group that represents many New Mexico Counties. The discussions have focused on collaboration to adopt statewide standards and to pass legislation addressing specific jail-related issues such as mental health treatment and diversion programs.

### To'Hajiilee Basketball

Co-Legal Directors Jane Gagne and Phil Davis, Law Clerk Joachim Marjon, Bach and Egan filed this suit in federal district court in July 2007. During a tournament last year, another team (Temple Baptist) alleged there were items stolen from their locker room. The New Mexico State Police (NMSP), with no probable cause, searched all the Native American school's players' personal bags and searched the school bus in which the team arrived.

### 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 Koenigsberg, Peter Cubra, Rosemary Bauman and Bach filed suit to enjoin the ordinance. The ACLU of New Mexico and Protection & Advocacy, Inc. have filed their brief in the New Mexico Court of Appeals.

#### 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 the ACLU of New Mexico 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 of New Mexico and Executive Director Peter Simonson) did not have "standing" to sue because the ordinance had not gone into effect yet when they filed suit. Bach, with the host of cooperating attorneys, drafted a petition to have the case appealed to the New Mexico Supreme Court in July. The New Mexico Supreme Court decided it will review the decision by the NM Court of Appeals, and will take briefs and hear oral argument on the standing issue.

## New ACLU-NM Web Site Features!

### ACLU-NM BLOG

Looking for real-time news, commentary, and analysis about civil liberties topics at both local and national levels? You're in luck! Introducing the new ACLU of New Mexico Blog:

[aclu-nm.blogspot.com/](http://aclu-nm.blogspot.com/)

Recent entries include:

- » *NM Supreme Court will hear DWI property seizure case (July 24, 2007)*
- » *Not the sort of thing they should be testing for in school (July 23, 2007)*
- » *The dreadful state of RCC (July 5, 2007)*

The blog is frequently updated so check back regularly!

### MONTHLY E-NEWSLETTER

Publishing monthly, this new online connection informs subscribers of major current litigation, upcoming events and ways to take action on legislative issues. Sign up at [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 New Mexico Civil Liberties 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:

Name \_\_\_\_\_ Address \_\_\_\_\_

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

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

### ✉ RETURN TO:

ACLU-NM Development Dept. • P.O. BOX 566 • Albuquerque, NM 87103 • FAX (505) 266-5916 • Questions? Call (505) 266-5915 ext. 1001

-SUMMER 2007-