



TORCH

American Civil Liberties Union - New Mexico

Volume 27, Number 2

March - April 2003

2003 Legislative Final Report

Perhaps because we have a new governor, the 2003 legislative session held a number of small surprises, most of them beneficial to the cause of civil liberties and rights. A bill that would provide protection against discrimination based on sexual orientation and gender identity finally passed the legislature and is waiting to be signed on the governor's desk. A joint memorial asking the legislature to reaffirm its commitment to uphold the Bill of Rights in the face of the USA Patriot Act received strong bipartisan support in the House, although it failed to receive a final vote on the Senate floor. The legislature passed a new bill that would clear the way for all immigrants, regardless of legal status, to obtain state drivers licenses.

On the defensive side, the ACLU-NM worked with state agencies to significantly expand civil liberties protections in a bill that gives the Department of Health powers to isolate and quarantine in the case of public health emergency. A proposal to broadly define "acts of terrorism" in state law stalled in the legislature despite receiving strong support in the 2002 session. Similarly, despite fears that these proposals could not be stopped this year, advocates for reproductive rights managed to stop bills that would require parental notification before teen abortions.

All in all, the session was a positive one. The New Mexico legislature proved itself to be more skeptical about the Bush Administration's

national security proposals than our Congressional leaders in Washington DC. We saw some signs that the legislature is willing to take advantage of the change in the governor's office to pass pro-rights bills that previously had died in committee. Below is a more detailed discussion of this session's legislative outcomes:

ANTI-TERRORISM

HJM 40 (SJM 30) (supported) Reaffirming Civil Rights (died)

(Representative Max Coll; Senator Cisco McSorley)

These Joint Memorials critiqued various elements of the USA Patriot Act and discouraged state police from assisting federal agents in investigations, surveillances, and searches that violate the rights of New Mexicans. The Memorials also directed schools to notify people whose education records have been obtained by federal agents under the Patriot Act. They directed libraries to post notices informing the public that federal agents can obtain records of books checked out by patrons. Finally, the Memorials required the state office of Homeland Security to make a public report every six months about federal anti-terrorist activity in the state and how it affects state residents.

The ACLU of New Mexico drafted the Memorials based on a model

IN THIS ISSUE

4

Patriot Act II

6

Henry Quintero

8

Harvey Morse

9

County Detention Center Inspections

11

*Northern Chapter Board of Directors
Ballot*

resolution that was prepared by the national ACLU office. Valerie Gremillion of the Santa Fe organization Global Dialog was instrumental in generating grassroots support for the Memorials as they made their way through the legislature. The Senate version was tabled in the Senate Rules committee, but HJM 40 got out of the House with broad bipartisan support, 53-11. Several amendments were made to the Memorial in the House Judiciary, but nothing that significantly compromised the intent of the Memorial. After a 5-1 vote in favor in the Senate Judiciary Committee, HJM 40 made it to the Senate floor, but was never heard. Depending on the political climate next year and changes in federal anti-terrorism legislation, we will

Continued on p. 13



Executive Director's Notes

Postmodern Politics and the Sex Offender

by Peter Simonson

A few weeks ago, the ACLU held a press conference to publicly call upon Albuquerque Mayor Martin Chavez to end his persecution of convicted sex offender David Siebers. Since Siebers arrived on the West Side of Albuquerque some five or six months ago, Albuquerque police officers have hounded him around the clock, tracking him far beyond Albuquerque's borders to such far-flung places as Veguita and Chilili. Chavez has spared no opportunity to declare his disdain for Siebers in the press, advocating the public's "right to shun those who violate our code of human decency." Not surprisingly, Siebers has been the target of several acts of vigilantism, including a violent assault.

The absurdity of devoting so much attention to a single ex-felon makes you shake your head in wonder. Chavez justifies the response by citing a yet-to-be-revealed FBI report that allegedly characterizes Siebers as a rapist who "will re-offend." However, similar prognoses probably apply to many of the five or six hundred other convicted sex offenders living in Bernalillo County (not to mention most criminals, in general).

Even if such a report exists, it doesn't justify assigning two officers to monitor Siebers twenty-four hours a day on the conjecture that he might commit a crime when it pulls APD officers away from responding to sex crimes that actually are occurring in Albuquerque. Not long ago, the APD downgraded the priority of certain domestic violence

calls because there weren't enough officers to respond.

The press has done more than its share to over-inflate the importance of the Siebers matter. On the same day that the ACLU held its press conference about Siebers, it also issued a press release announcing that ACLU attorneys had filed a motion of contempt against the Hobbs Police Department for breaching a consent decree that stemmed from one of the few class action lawsuits against a police department in New Mexico history. The press conference received broad coverage by local TV and print media, while the Hobbs case received only minor mention in the Albuquerque Journal.

Similarly, the journalists that attended the Siebers press conference only reported comments by ACLU representatives and utterly ignored the most important speakers: three clinical experts who offered insights on proven strategies for managing

sex offenders and preventing sex crimes in our communities. In its hunger to report fighting words from the ACLU, the press deprived the public of an opportunity to learn something about the truth behind sex crimes and the real risks to the community.

Such contradictions illustrate a disturbing fact about today's mainstream media: they no longer report the news, but create it. Gone are the days of popular investigative journalism that uncovered the information needed to understand and make educated decisions about critical events and complex public policy issues in our communities. Today's popular press seeks drama—something to pique our emotions and keep us attentive long enough to watch the commercials or notice the ads. A story like Siebers' rides the front pages long after the real news is over because it keeps the reader coming back for more—more fear, more enticement, more thrill, but not more insight.

Policy makers copy the strategy of mainstream media. Not long after the Siebers' affair began, Mayor Chavez proposed an ordinance that, among other things, would require convicted sex offenders to submit DNA evidence to the APD and

Continued on p. 3

TORCH

Publisher: Peter Simonson
Editor: Peter Simonson
Production: Kris Jensen

POSTMASTER:
Send address changes to
P. O. Box 80915,
Albuquerque, New Mexico 87198.

Subscription: \$5.00 per year.

Publication Number:
ISSN 0164-8462
USPS 045-990

The Torch is published bi-monthly by the ACLU of New Mexico. Periodical postage is paid at Albuquerque, New Mexico 87101. Office of Publication can be reached at PO Box 80915, Albuquerque, NM 87198. Phone number is (505) 266-5915. Signed articles in *The Torch* represent the writer's view, which is not necessarily that of the ACLU of New Mexico.

Executive Director's Report, continued from p. 2

would prohibit two convicted sex offenders from living in the same house.

At the state level, some legislators introduced bills that would establish life-time parole for sex offenders and prohibit out-of-state sex offenders from moving to New Mexico. All of these proposals would re-punish people who already served their debts to society. They are boldly unconstitutional, not to mention impractical.

Being lawyers themselves (or at least having ample access to legal counsel), political leaders like Chavez know that their proposals conflict with higher laws and resource constraints, but they don't care. They aren't really concerned about passing their ideas into law. Their main objective is to demonstrate to constituents that they too despise sex offenders—and drunk drivers, and gang members, and drug users. Their intent is to portray a self-image that feeds the public's visceral response to tough issues. And they do it at the expense of legitimate lawmaking.

This is the hallmark of the postmodern era: a popular culture that makes meaning and truth take a back seat to image production and emotional gratification. Politics and information masquerade as vital influences in our lives when their true purpose is shallow titillation. As long as we, the public, don't demand more from our press and political leaders, we will never find true solutions to problems like the prevention of sex crimes. But we'll be deceived into thinking that we have.

Calendar of Upcoming Events

ACLU of New Mexico

- April 5 Board Meeting
- May 16 Legal Panel 12:00 PM
- May 21 Board Meeting
- Annual Meeting/Al Bronstein
- June 9-11 ACLU Biennial Meeting, Washington, D.C.
- June 12-15 ACLU Inaugural Membership Conference, Washington, D.C.
- June 27 Legal Panel 12:00 PM
- August 2 Board Meeting
- August 15 Legal Panel 12:00 PM
- September 26 Legal Panel 12:00 PM
- October 4 Board Meeting
- November 7 Legal Panel 12:00 PM
- December 5 Legal Panel 12:00 PM
- Bill of Rights Dinner 6:00 PM
- December 6 Board Meeting

Northern Chapter

Chapter meetings are held on the third Saturday of each month from 10:00 AM-12:00 PM in the community room of the La Farge Library, Llano Street, Santa Fe. The meetings are open to ACLU members and suggestions for agenda items are welcome. Contact Trish Steindler @ 505-438-0518. The meeting dates are as follows:

- April 19
- May 17
- June 21
- July 19
- August 16
- September 20

Southern Chapter

Chapter meetings are held on the first Wednesday of each month in the front room of the Unitarian Church, Solano Street, Las Cruces. The meeting dates are as follows:

- May 7
- June 4
- July 2
- August 6
- September 3
- October 1

Patriot Act II

by Janet Steinberg

Apparently, the first U.S. Patriot Act of 2001 that unleashed unprecedented domestic surveillance, intelligence gathering and increased law enforcement privileges without the normal Constitutional safeguards of access to information

and judicial review were not enough for the current administration. The Department of Justice has drafted a supplemental proposal to augment their singular powers. This January 9, 2003 draft, leaked to the press and not presented to Congress, is called the Domestic Security Enhancement Act or the "Patriot Act II."

The Homeland Security Department's Latest Target: Iraqi-Americans

By Cari Lynn Rome

Now that the U.S. and its allies have begun their military attack on Iraq, Iraqi-Americans are no doubt concerned about their relatives in the Middle East. However, they may soon have to worry about their own safety as well. The U.S. Government has announced its plan to interview thousands of Iraqi nationals living in the U.S. who had been previously targeted for questioning in the event of war. This new initiative is clearly along the same lines as the "Special Registration" program that has singled out men from Muslim and Arab nations to be fingerprinted, photographed, and interrogated, though officials have not disclosed the standards that have been employed for determining who is targeted.

Considering the absence of due process afforded the post-September 11th, 2001, detainees, it is not surprising that Iraqi-Americans are fearful. State ACLU affiliates, including ACLU-NM, have begun to receive complaints from Iraqi-Americans, some of whom sought refuge in the U.S. because of their political opposition to Saddam Hussein's regime and now are being targeted for interrogation. In response to the flood of phone calls and complaints, some ACLU affiliates are arranging for attorneys

to accompany Iraqi-Americans to their interviews.

Disturbingly, there are reports that FBI officials have advised Muslim groups that the presence of an attorney would make the Iraqi's questioned immediately suspect. The negative consequences of such advice for both government purposes and the safety of the Iraqis being questioned is clear. As Dalia Hashad, the ACLU's Arab, Muslim and South Asian Advocate, notes "it is unlikely that people with information will come forward when they feel that having an attorney present will render them suspicious to the government and not having an attorney present will expose them to unwarranted detention or worse."

In a further attack against people of Iraqi origin, Department of Homeland Security has announced "Operation Liberty Shield," which mandates detention of all asylum-seekers from Iraq and other countries with ties to al-Qaida. This policy has been harshly criticized by immigrant rights groups as it criminalizes political refugees, many of whom fled to the U.S. because of their opposition to the very regimes that the U.S. considers to be a threat.

ACLU-NM encourages persons affected by these new policies to contact our office at 266-5915 or aclunmpa@swcp.com with questions or concerns.

Written in isolation from the legislative branch of the government, the Center for Public Integrity obtained a copy of the draft in mid February. Key elements of this draft proposal include

Singular power of the U.S. Attorney General's office to strip American citizens of their US citizenship if such individuals become members of or provide material support to a deemed "terrorist organization."

All power would be concentrated in Justice Department without any individual access to courts, lawyers, etc.

Information about actions against terrorism would become classified.

Increased authority by the Department of Justice to deny access to information on "suspected terrorists" held in government custody.

Creation of a DNA database on "suspected terrorists." Definition of "suspected terrorists" in Patriot II now broadened to include individuals associated with suspected terrorist groups and terrorist non-citizens suspected of some crimes or suspected of supporting "terrorist" groups.

No due process or presumption of innocence for "suspected terrorists" held before trial, secret arrests, holding individuals without bail, sentencing of 10+ years without the right to appeal.

Restrictions on the Environmental Protection Agency under the Clean Air Act. No reporting of information on toxic pollutants released by private companies. People living and working in specific and surrounding geographic communities in which such dangerous chemicals might be discharged, even under threat

Continued on p. 5

Patriot II, continued from p. 4

of a "worst case scenario," would not be informed.

Termination of all state law enforcement consent decrees prior to 9/11/01 that limit information gathering about individuals and organizations.

The entire draft proposal of Patriot II is available on line at the Center for Public Integrity, www.publici.org. With obvious assaults to freedom of information, citizenship rights, due process, separation of powers, the Bill of Rights, etc., reading the entirety of the draft is worthwhile.

Also worthwhile is paying attention to the way which the composition and intended distribution of this proposed draft was handled. Usually, draft proposals of federal departments are developed and written with the input and consultation of a broad range of specialists and experts from the Congress and from related government agencies and departments. This draft proposal was developed and written solely by the US Attorney General's office. No one outside the administration knew about the existence of this draft proposal in its developmental stages. . Not until this proposal was leaked to the press did anyone in the US Attorney General's Office acknowledge its very existence.

In early March, the first time Patriot II was openly discussed in Senate hearings, Senator Patrick Leahy told Attorney General Donald Rumsfeld about a transaction between one of his (Leahy's) staff and one of Rumsfeld's staff concerning rumors of the existence and substance of this proposal five days before this draft was leaked to the press. Rumsfeld's staffer told Leahy's staffer that such a proposal did not exist. Leahy said to Rumsfeld at this hearing, "Your staff lied to my staff. Blatantly lied about the existence of this proposal." Rumsfeld did not respond. When Leahy asked

Rumsfeld if in fact items in this draft were being proposed, Rumsfeld answered by saying, "These items are under consideration."

The reaction to Patriot II by New Mexico's elected federal officials has been scant as of this writing, March 10. Congressman Tom Udall, the only member of our federal delegation to vote against the first version of the U.S. Patriot Act in 2001, said that he vowed to monitor the progress of this new, "drafted in secret," proposal. "It seems as though every time we have victory in overturning these domestic spy programs, we're surprised with another...now that we have set the Total Information Awareness Program, TPIS, on the back burner, we learn about a far-reaching sequel to the patriot Act. The manner in which the administration is presenting these ideas is very, very disturbing..."

Udall went on to say, "Whether in times of war or peace, finding the proper balancing line between government power and the rights of the American people is a delicate and extremely important process. It is a task that rightly calls into play the checks and balances that the Founders created in our system of government. All three branches of government have their proper roles to play in making sure the line is drawn appropriately."

Obviously, if war becomes a reality, (again, as of March 10, it is not), individual rights are often sacrificed for the good of the cause. Since only 36 news print stories and one television news stories covered the proposed Domestic Security Enhancement Act when it was leaked during peace time, it is incumbent upon you to know whether or not Patriot II remains a draft proposal or becomes a reality.

SAVE THE DATE

Annual Membership Meeting ACLU of New Mexico

April 26, 2003

10:00 AM- 12:00PM

Indian Pueblo Cultural Center

2401 12th St. NW, Albuquerque

U.S. Representative Tom Udall Invited

Representativ Udall has been invited to speak on the Patriot Act and future developments on The War On Terrorism.

Topics:

**The Domestic War on Terrorism
Civil Liberties in New Mexico**

ACLU-NM Legal Director Named Judge!

The ACLU of New Mexico congratulates Henry R. Quintero, former Legal Co-Director of the ACLU-NM Legal Panel, for his appointment as District Judge for the Sixth Judicial District Court, covering the counties of Grant, Luna, and Hidalgo. For several years, Henry served as a Legal Co-Director, making the long trip from Silver City to Albuquerque to participate in our monthly Legal Panel meetings. The ACLU-NM Legal Panel reviews citizens complaints and determines which legal cases the ACLU-NM pursues. We are lucky to have a person of such character and awareness of civil liberties occupying a judicial post. Thank you, Henry, for your years of service to the ACLU.

In honor of Henry, we reproduce the transcript of his speech at the judicial swearing in ceremony which took place on Thursday, March 13, 2003 in Silver City. We also include comments by Phil Davis, ACLU-NM Legal Co-Director.

Honorable H. R. Quintero

Chief Justice, Justice Serna, Judge Wechsler, Judge Vesely, Judge Jeffreys, Judge Castillo, Judge Morales, Judge Jacquez, Judge Salcido, Judge Hall, and Judge from the Municipal Court in Lordsburg. Thank you. I also want to thank my partners, J. C. Robinson and my other partner, former partner, David Lopez, for your efforts through the years we have been together. I thank my colleagues and leaders of the various communities who are here. I especially thank my family, my mother Amparo Quintero, my brother David, my son the poet of the twenty-first century, Henry, who was originally named Richard Quintero, Jr., but when he went on to college and they saw him at USC, they saw his hair, they saw his body, and they renamed him Oso. My wife,

Nellie, who has dared to join me in this adventure and her two fantastic children, Gabriella and Andres, who have honored me to again enjoy the experience of fatherhood. I thank you all for honoring this judicial district with your presence and I am truly humbled because by honoring this Court, you are honoring me.

What has preceded us here today is very flattering. But also serves to encourage us to continue in our never ending pursuit for justice and equity. But first, let me tell you a story about this robe. This robe was first worn by a young Canadian student of Theology when he graduated from a Seminary School in the State of New York in 1927. During World War II, that gentleman served in the Royal Canadian Air Force as a Chaplain. He met and married a young American schoolteacher, he moved to Salinas, California, after the war and he became an English teacher. I met him when I was a junior in high school and he became my English teacher. His name was Percy G. McClennen and everyone

called him Pete. The students called him Mr. McClennen. That was before teachers would allow anyone to call them by their first name. Mr. McClennen became my mentor and upon discovery of that I had no intention to going to college because I was under the perception that college was for the well to do and I was certainly not from the well to do. He rounded up another group of fantastic teachers at Salinas High School and before I knew it, he had rounded up scholarship money so I would have money to go to college and they even found housing in the event I needed it, when I ended up at San Jose State University. Pete and those other teachers stayed in touch with me and after I graduated and my son was born, he started visiting us on a regular basis and he became part of our family. He became a third grandfather to my son. He gave me his library and it is now part of mine. When I graduated from law school he said: "Here's my robe from Union College in New York, I want you to wear it." So I wore it when I graduated from law

Continued on p. 7



Quintero, continued from p. 6

school. When my son graduated from USC he wore the robe. Pete died on my birthday in 1984 on the same day I was headed for Silver City, New Mexico, to begin my new profession here. But he didn't die before that morning sending me a birthday card and wishing me well in my endeavor in the Southwest part of New Mexico.

Aside from the strong emotional and personal ties I have to his robe, I have told you this story because on occasions like this the temptation is great to reflect on what others might perceive to be our accomplishments. However, on further reflection, it is abundantly clear that this newly appointed Judge has accomplished nothing himself. The accomplishments, if any, belong to those who formed his life. From his father, who died two years and four months ago, he learned the value of hard work, to overcome roadblocks and ruts on the road. From his mother, he learned the value of patience, belief in the goodness of others and the importance of pursuing academic endeavors. From the neighbors who lived in Colonia de Independencia or, in English, the Independence Colony, in the poorest sections of Tijuana, Mexico, where I was born, where this new Judge lived when he was very, very young, many, many years ago as you can tell, he learned that, despite the absence of running water, despite the absence of electricity, things we now consider to be basic necessities, a community can grow and prosper if it has the will to do so. From teachers in Elementary school he learned the importance of encouraging others to try their best in a system in dealing with their insecurities even if, upon entering school, those young minds, though capable, were not fluent in the English language or in the customs of this society. From high school teachers and college professors he learned that there are many more reasons to be united in

the pursuit of an education than there are reasons to be divided by differences in race, or ethnicity. From his son, who you've heard here today, he has learned that pursuit of the arts is as necessary as the pursuit of physical sustenance to make us whole so that we may be creative in our continuous effort to improve all societies, not just ours. And by the way, he has been telling tall tales since he was five years old. From his friends, the Smiths, Garcias, Trujillos, Josie Perea, Pat Brantley he has learned that friends are as important as air, food and water if we are to be grounded, healthy and involved. From his wife, Nellie, he has learned that regardless of the hardships in one's childhood and young adult years, the words ambition and drive are good words. They keep us focused to better oneself and to provide for our children, to assist us in overcoming adversity. From colleagues like Phil Davis and J. C. Robinson and David Lopez, and others, he has learned that fighting what sometimes looks like a losing effort for human and civil rights, is not always a losing effort.

And hope does spring eternal. Periodically we see changes in the system, and those changes came about because we were willing to raise the battle to better society. From adversaries, he learned that if we advocate fairly, and honestly, our hard fought battles engender respect and fair treatment from the other side, and our former opponents may even become our allies in our continued search for justice. Finally, from this community, and this community includes all three counties in this judicial district, he has learned that there are no outsiders. If one commits to his community, the community will commit to him. A friend many years ago used to say to me when I was young: "Henry, as we get older we have new experiences, it never ends." But so far the road has been a great experience and this new Judge expects everyone to help this Court

when help is needed. That help may come from your patience, from your criticism, from your prayers or from your advice. So, you see, as individuals we accomplish little or nothing. Because others push us forward we can ultimately provide a service to the community and if we are to give credit where credit is due, thank yourselves for helping me celebrate this occasion which resulted from your efforts. Thank you

Comments by Phil Davis, ACLU-NM Legal Co- Director

On March 13, 2003, ACLU-NM Co-Legal Director Henry Quintero was sworn in as state district judge in the Sixth Judicial District, Grant County, New Mexico. Appointed by Governor Bill Richardson to the position, Judge Quintero is the first Hispanic to serve as a state district judge in the Sixth Judicial District. Several state appellate judges came from Santa Fe to attend the swearing-in ceremony and letters of congratulations from the Governor and New Mexico legislators were read at that time. Henry's son, Hank, his former law partner, J.C. Robinson, and fellow Co-Legal Director Phil Davis all spoke at the swearing-in, telling stories on Henry and wishing him the best in his new endeavor.

ACLU's loss is New Mexico's gain. The recurring themes in the remarks of those who spoke at Henry's swearing-in were his strong and unwavering commitment to civil rights and justice. Over the several years Henry served as Co-Legal Director of the ACLU-NM, he was an outspoken advocate of the Bill of Rights and how those individual liberties enshrined in that document protected the people

Continued on p. 8

Director of Development Appointed to ACLU of New Mexico

Harvey Morse recently accepted the position of Director of Development for the ACLU's New Mexico Affiliate. He was a senior development professional for twenty years having served in the following capacities; Executive Director of Development for Choate Rosemary Hall, Wallingford, Connecticut, one of the premier independent secondary schools in the country; Director of Development for the Tilton School, Tilton, New Hampshire; Vice President of St. John's College, Santa Fe, New Mexico; Chief Development Officer, University of New Mexico School of Law; Director of Development, The Santa Fe Opera.

Harvey graduated from the University of Pennsylvania in 1968 with a

Bachelor of Arts degree in history. "I was on my way to law school when I was offered a graduate fellowship in an experimental program in urban secondary education. I stayed on at Penn and earned a Masters Degree in Education while I taught in an inner-city school in Philadelphia. One of the unique parts of the program was that we had to live in a similar neighborhood to where we were going to teach. For a kid from Bucks county Pennsylvania, a predominantly white, affluent environment, that was quite a learning experience."

From 1970 to 1983 Harvey taught history and economics at Choate Rosemary Hall in Wallingford, Connecticut. His specialty was minority and ethnic histories. Courses he taught included Minority Groups in America, Afro-American History, Native American History, Law and Social Change, an honors level course in American Studies, and The Holocaust. In 1970 he received a study grant that allowed him to travel throughout the United States to do research on Indian reservations, interviews with Japanese-Americans who had been interned in war relocation camps and to interview a variety of people working in Caesar Chavez's organization in Delano, California. "My father was quite proud of my work in this area. He had dropped out of Wayne State University during the Great Depression to become a labor organizer. Those were the turbulent years of labor organization and he was in the epicenter in Detroit."

From 1977 to 1983 Harvey divided his time between teaching and working as an admissions officer. In addition to teaching and admissions work he and his wife Sarah lived with students for 22 of the 23 years they remained at Choate. He also

coached seven different sports while at Choate including New England Championship teams in squash and tennis. In 1983 he was asked to "temporarily" step out of the classroom to assist in a capital campaign that had stalled.

From 1983 on he has been involved in advancement/development work in some of the leading organizations in the United States. He has been involved in all phases of development work including capital campaigns in excess of \$130 million. He has done presentations for the National Association of Independent Schools, Council for the Advancement and Support of Education, The National Planned Giving Institute, and the Alumni Programs Council.

Harvey's wife Sarah teaches at Rio Grande School in Santa Fe. They have three sons: Jim, currently a police officer in Oak Bluffs, Massachusetts, and full time law student at The New England School of Law, Nate, working in Debt Capital Markets for Barclay's Bank in New York City, and Tim, a senior education major at Roanoke College in Virginia. In addition to motorcycling and cycling Harvey and Sarah have spent one or two weeks in 17 of the last 20 years in California wine country.

"This is an exciting time to begin working for the ACLU. The challenges are significant and will likely grow given the current national and international political climate. Those factors combined with a weak economy seem daunting by any standard and yet I think there are tremendous opportunities for successful long-term development programs. The cause is just and the needs of the organization are real. We must do more to educate people about our mission, the highly important work we do and most importantly how it affects them. We simply must personalize the effects of our work!"

Quintero, continued from p. 7

against governmental abuse of power. Henry's tireless work in support of civil liberties as ACLU-NM Co-Legal Director including routinely traveling up from Silver City to Albuquerque for Legal Directors' meetings, traveling throughout southern New Mexico to speak at citizens' meetings on such diverse topics as Border Patrol abuses of immigrants, police brutality, voting rights and free speech and free exercise of religion issues.

Henry approached his role as Co-Legal Director with vigor, humility, creativity and wit. We wish him well in his new position. While we have lost a Legal Director and a colleague in the fight for civil liberties, southwestern New Mexico has gained a soon-to-be distinguished jurist who will not discard his lifelong commitment to civil liberties while on the bench. Bravo, Henry!

New Citizens' Group Inspects SF County Detention Centers

NNM ACLU Spurred Action

By Pat Sharpe, NNM Chapter Board Member and NNM State Board Representative

A young man's family had a problem. The young man had been arrested and charged with a crime. He was eligible for bail, but somehow had signed a contract with two bail bonding companies. Now both companies were harassing the family for payment. How could such confusion happen? What could the family do?

The family contacted the Santa Fe County Corrections Advisory Committee (CAC), a group of seven citizens appointed by the Board of County Commissioners to evaluate the performance of the County's adult and juvenile detention centers.

A year ago no such recourse existed. Thanks to the efforts of a team of Board Members from the Northern New Mexico chapter of the New Mexico ACLU affiliate, in cooperation with city and county officials, the CAC was created on February 13, 2001. It swung into action about six months ago and will soon submit its first semi-annual report to the County Commissioners.

Representatives of bail bonding companies operating in Santa Fe County came to a CAC meeting on Sept. 26, 2002. The CAC called their attention to the double bonding problem. How, asked CAC members, do bonding companies solicit business? Who contacts whom and when? The CAC also requested bonders' reactions to allegations that detention center employees might be illegally funneling business to favored bonding companies to the detriment of competitors. CAC

suggestions for better bonding procedures will be sent to the County Contract Monitor.

Medical care for detainees was the other big topic on the Sept. 26 agenda. Dr. Steven Spencer, CAC member and nationally recognized expert on correctional health, described his recent inspection of facilities and procedures at the adult detention center, concluding that standards were generally in tune with national expectations. Promising "I'll be back," he suggested better chronic care follow up, documentation and "CQI" or continual quality improvement. The contractor's protocol on forced medication, restraints and seclusion, of special interest to ACLU, prohibits suffocation-prone "face down" restraint. The number of detainees on psychotropic drugs does not significantly exceed national averages.

Finally, the CAC reported on its campaign to change phone policies for detainees. The Public Defender's office had been puzzled by the paucity of calls from a detainee population exceeding 600. Investigation revealed that the Center's phone system was designed to permit only four calls a day to one phone number. If just four detainees can call the PD office daily, access to legal counsel has been reduced unreasonably. The warden promised and delivered, a week later, full PD access.

A detainee complaint to the NNM ACLU Chapter was the impetus for the process that led to the creation of the CAC. Cooperating with other local groups, the NNM Chapter sponsored two open forums to mobilize public opinion in favor

of jail reform. Meanwhile, a NNM Chapter task force was enlisting support from local officials.

The City of Santa Fe acted first by proposing a citizens' oversight committee. Next the County Commissioners created the CAC and also appointed a corrections liaison officer, Greg Parrish, to monitor contract compliance. On expiration, the adult facility contract was rebid and awarded to a new contractor.

To ensure "advice from a comprehensive cross section of the community," the CAC resolution specifies that CAC members will be drawn from relevant professional fields: medicine, mental health, substance abuse, law enforcement, judiciary, law and local government, plus an at-large member. The CAC is directed to "inspect the county corrections facilities at least two times a year," "review programs and policies" and "make written recommendations" to County Commissioners. The CAC resolution also declares that "maintaining the human rights of those incarcerated...is vital."

CAC Chairman Joe Gallagher is "impressed by the caliber" of his fellow CAC members, most with solid background in corrections, which means they know what's good and right.

At-large member Steve Marvin stresses that the CAC is built to be effective. When being recruited, he told interviewers that he would not be a "rubberstamp" for anything or anyone. He sees the role of the CAC as part of the "checks and balances" of the American system and notes that "when people are in trouble, they call the ACLU."

But CAC can't do it all, says member Joanne Brown. Adult detainees need literacy and substance abuse programs. Juveniles require coaching and tutoring if they are to make

Continued on p. 10

2003 Northern Chapter Board Candidates' Statements

Candidates: Burt Alpert, Nanette G. Farrelly, Steve Marvin, Keith Melton, Chris Olson, Chantel Reynolds, Gail Terzuola.

Burt Alpert is a past member of the Board of Directors of the ACLU in Rhode Island and has been on the NNM Board for the last three years, during which time he has been an active member of the Legislative Committee. Burt is especially interested in church-state issues and women's equality. He also worked on the Campaign Finance Reform bill (McCain-Feingold). He expects to be very active in ACLU for many years.

Nanette G. Farrelly is a lifelong resident of Santa Fe, NM. She graduated in 1979 with a BA in Sociology/Corrections from Loretto Heights College in Denver, CO. She is a licensed (LBSW) social worker with the NM Public Defender and is certified as a Criminal Justice Specialist with the American College of Certified Forensic Counselors. She has worked as an alternative sentencing advocate for indigent clients both adult and youth in the court system since 1994. She is currently serving clients in Santa Fe, Rio Arriba and Los Alamos counties.

Detention Center Inspection, continued from p. 9

something of their lives. While CAC demands contract compliance, individual and organizational volunteers can nudge despair toward hope.

The CAC meets twice monthly at the Land Use Bldg, Grant and Palace, Santa Fe. Meetings are open to the public.

Her strengths are in client assessments, case management and development treatment interventions for clients with multiple diagnoses. She had worked with many community agencies both in employment and community volunteer work.

She currently serves on the Santa Fe Community College Foundation Board to raise money for students to attain a college education. In addition she is appointed by the SF County Commissioners to the Corrections Advisory Committee.

Her passion is in helping citizens in our community attain the ability to live a quality life. She has two children in college and is married to Richard Farrelly.

Steve Marvin was born and raised in NYC. He produced television commercials and owned his own company in NY/LA/Chi before retiring to Las Vegas NM in 1989. Presently living in Santa Fe, he volunteers as a Big Brother, a MENTOR-NM, and as a CASA. He serves on the Board of Directors of KSFR 90.7 Santa Fe Public Radio and as the Vice-Chairperson on the Corrections Advisory Committee. He belongs to the Directors Guild of America and MENSA. "I used to believe that the Supreme Court would always protect this country from attacks by the Executive branch to undermine the system of checks and balances. However, with its appalling timorous behavior during the last Presidential election, and about to be packed further with conservatives, I now believe that the ACLU is almost all that stands between citizens and their bovine-like acceptance of the loss of their remaining individual freedoms. It would be a honor to serve the people through the ACLU."

Keith Melton moved to Santa Fe in 1970. He has served as a city planner for the City of Santa Fe as well as working with several state and federal environmental and water resource agencies. He is also a trained mediator and mediated for the Albuquerque court systems for five years. As part of his conflict resolution experience, he has volunteered his time to work with the United World College and the Bortos Institute for Constructive Engagement of Conflict; has participated in track-two dialogues among Middle East international disputants over sharing water resources; worked with Christians, Muslims and Jews in Beirut, Lebanon; with former Communist officials and NGOs from Bulgaria; with housing authorities and volunteers in Croatia; and with human rights organizations in the United States.

Chris Olsen has recently moved to Santa Fe, although he did live here in the early eighties. He has been an activist in protesting unconstitutionality of peacetime draft registration. He has been a spokesperson for the Massachusetts Battered Women's Service Groups and for the shelters the organization supports. He has done volunteer work for the San Francisco Public Library system, helping neighborhood children to use computers and gain online access. He has worked for Burt's Children's Center in San Francisco, cooking for the abused and abandoned children housed there.

He has already been active as a volunteer for the Northern NM Chapter. Through his job as an assistant editor for an online magazine, he has developed extensive skills as an on-line researcher and he is committed to working with the Northern NM ACLU chapter and civil liberties in general.

Continued on p. 11

Candidate Statements, continued from p. 10

Chantel Reynolds is currently serving her second year as Vice-President of the Northern NM Chapter, after having spent her first year on the board serving as Secretary. She's been active in the local chapter's efforts to defend civil liberties and improve the community's awareness of the importance of those liberties. She frequently represents the Northern Chapter at the ACLU-NM state board meetings, and she has assisted in legislative lobbying by writing position statements for distribution to area legislators. Her fellow board members sometimes affectionately refer to her as the 'kid' of the group.

Gail Terzuola was born and bred in New York City and made her way to Santa Fe in 1984 after spending 14 years in Guatemala. The mother of two sons who currently attend college in NYC, Gail is both a social worker and a drug and alcohol counselor, and has worked in PNS maximum security prison, as director of the Service-Learning Dept. at Santa Fe Community College. Besides recruiting and placing volunteers in the community, Gail registers approximately 2,000 people each year to vote.

Her undergraduate work in history gave her a great appreciation of civil liberties. Currently Gail serves on the Victims Impact Panel Advisory Board, the Sangre de Cristo Service-Learning Board and the Community Center of Excellence (Women's Health) Advisory Board.

Board of Directors Ballot for the ACLU-NM Northern Chapter

(Please Note: This election is for ACLU-NM members who reside in Northern New Mexico only. If your zip code begins with 875 or 877, you are eligible to vote.)

Instructions for voting:

There are seven candidates and eight open seats. To vote, check the box next to the candidate's name. There is one space for a write-in nomination.

For households with two New Mexico ACLU members, each member may vote $\text{\$}$ simply check off the votes in the second column. For households with one ACLU member check off votes in one column only.

We must confirm ACLU-NM membership and still keep the votes anonymous. We need your help to do this. Cut out the ballot and insert in an envelope with your name clearly printed on the outside envelope. For two-member household each member must be listed.

After we confirm membership, we discard the outer envelope and count the ballots anonymously. Ballots must reach the ACLU office by May 1st. Volunteers will count the ballots and all candidates will be notified. Election results will be posted in the next Torch issue.

**Send ballots to: ACLU NM
PO Box 80915
Albuquerque, NM 87198**

Ballots must be in our office by May 1.

CANDIDATES in alphabetical order

- | | | |
|--------------------------|--------------------------|-----------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Burt Alpert |
| <input type="checkbox"/> | <input type="checkbox"/> | Nanette G. Farrelly |
| <input type="checkbox"/> | <input type="checkbox"/> | Steve Martin |
| <input type="checkbox"/> | <input type="checkbox"/> | Keith Melton |
| <input type="checkbox"/> | <input type="checkbox"/> | Chris Olson |
| <input type="checkbox"/> | <input type="checkbox"/> | Chantel Reynolds |
| <input type="checkbox"/> | <input type="checkbox"/> | Gail Terzuola |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| | | (write-in nomination) |

UNM Law School Chapter Update

By Bruce Thompson

As a follow-up to our "First Monday" presentation in October, "Civil Liberties in a New America," we are preparing to do another seminar this Spring on the not-yet proposed "Patriot Act II." This will be a panel discussion on the new and even more inventive proposals contained in the Justice Department's recent draft of the "Domestic Security Enhancement Act of 2003," a confidential internal document leaked to the Center for Public Integrity in January.


This new draft of anti-terrorism legislation would, for example, permit the expatriation of an American citizen "if...he becomes a member of, or provides material support to, a group that the United States has designated as a 'terrorist organization'." Thus, to be stripped of U.S. citizenship and forcibly deported to another country, all one has to do under this proposed legislation is participate in some undefined way in the lawful activities of any group that the Attorney General deems a "terrorist organization." These draft provisions represent another grave threat to civil liberties and must be brought to the public's attention before and not after they are voted on by our elected representatives in Congress.

On January 21, 2003, the ACLU hosted a public forum moderated by law professor Timothy Canova, following the screening of the film, "The Trials of Henry Kissinger," at Madstone Theaters in Albuquerque. The film documents Kissinger's various abuses of power, both before and during his service in government. The discussion afterward was very well attended, lively, and represented a broad concern within the community about both the possible abuses of

government power and ways to bring those abuses to light.

ACLU Law School Chapter also continues to host a dinner on the second Tuesday of each month with residents of Dismas House, a home for women who have recently been released from the Women's Correctional Facility in Grants, and who are beginning to reintegrate back into non-prison life.

Finally, we are planning to join forces with interested undergraduate and graduate students on UNM's main campus. Our "First Monday" presentation was a very successful collaboration with civil liberties activists on main campus, and we hope to forge a more formal coalition with them before the summer break. We are also very grateful to activists in the community who have attended our seminars and discussions, and we very much look forward to working with you in the difficult months to come!



INVITES YOU TO

**"Stand Up
for Freedom –
Because Freedom
Can't Protect Itself"**

**2003 ACLU Inaugural
Membership Conference**

**June 11-15, 2003
Washington, D.C.
Omni Shoreham Hotel**

ACLU-NM Mourns the Loss of Local Civil Libertarians

The ACLU of New Mexico lost one of its most passionate and knowledgeable civil libertarians when attorney William S. Dixon passed away on March 27th. Widely known as an expert on First Amendment law, Bill taught courses on constitutional law, free speech, and criminal procedure and was a director in the Albuquerque office of Rodey, Dickason, Sloan, Akin, & Robb, P.A. Many ACLU members will remember Bill for his eloquent tribute to Clinton Jencks, organizer of the 'Salt of the Earth' labor movement, during the 2000 Annual Bill of Rights Dinner. Bill received the ACLU-NM's First Amendment Award in 2002 and was honored as Cooperating Attorney of the Year in 1998. Additionally, Bill was founder of the New Mexico Foundation for

Open Government. He earned his A.B. in 1965 from Princeton and a J.D. in 1968 from Yale.

Blanche Amberg Fitzpatrick, a lifelong human rights activist and peace advocate, died in her home in mid-March. Blanche was a National ACLU Board Member for many years and received the ACLU-NM Outstanding Civil Libertarian Award in 1990. She earned a J.D. from the New Mexico School of Law in 1953 and co-founded the Center for Peace and Justice.

The ACLU-NM also wishes to recognize the recent passing of longtime ACLU members Mary Helen Carroll, Mary Burke, and Belle Granich. We will miss their passionate support of civil liberties in New Mexico.



Bill Dixon presents Civil Libertarian Lifetime Achievement Award to Clinton Jencks.

Legislature, continued from p. 1

make another run at this memorial in the 2004 session.

HB 231 (SB 194) (supported) **Public Health Emergency Response Act (passed)**

(Representative John Heaton; Senator Dede Feldman)

This legislation empowers the governor to declare a state of public health emergency and sets out the state's powers to isolate, quarantine, and seize property in the case of a biological threat to the public. Over the last year, a tri-agency task force made up of the Attorney General's Office, Department of Public Safety, and Department of Health held town-hall meetings around the state to gather public input on the law. In response to ACLU's extensive input, the work group and Senator Feldman made substantive, positive changes to the language of the original draft of the bill, beefing up due process protections and expanding accommodations for people who are isolated or quarantined. At our request, an additional amendment was placed on the House bill during debate in the Senate Judiciary prohibiting employers from discharging employees who are isolated or quarantined pursuant to provisions in the Act. Sen. Feldman's Senate version died on the Senate floor, but the House version passed both houses with nearly unanimous support.

HB 847 (opposed) **Theft of Identity and Unlawful Communications (definition of "act of terrorism") (died)**

(Representative Ben Lujan)

Originally modeled after language in the federal USA PATRIOT Act, this bill would have created a legal definition of terrorism as "an act of

Continued on p. 14

Legislature, continued from p. 13

violence that is or may reasonably be expected to be dangerous to human life or to cause property damage in excess of one hundred thousand dollars (\$100,000) and that is intended to intimidate or coerce a civilian population or influence the policy or conduct of a unit of government." ACLU-NM opposed this language as overly broad and a threat to legitimate protest activity. The bill was introduced late, however, so we monitored its progress and decided not to mobilize against it (a good example of our economy of effort!). The bill passed the House on a unanimous floor vote but never was heard in the Senate Judiciary

IMMIGRATION**SB 111 (supported)****Prohibit Illegal Immigrant Apprehension (died)**

(Senator Richard Martinez)

This bill would have prohibited law enforcement agencies and other political subdivisions of the state from using agency money, equipment or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship residing in the United States in violation of federal immigration laws. The bill would have permitted agencies to exchange information with INS in order to verify the immigration status of a person if he or she is arrested for any criminal offense or to request criminal investigation information with reference to persons named in service records. Oregon is the only other state in the country with such a law.

SB 111 died early in the session at its first hearing in the Senate Judiciary committee. Republican legislators characterized the bill as one that would "make of New Mexico a

haven for terrorists." SB 111 is an important piece of legislation for the ACLU to pursue because errant attempts by state and local police officers to enforce immigration law contribute to racial profiling and 4th Amendment violations in New Mexico. We anticipate making another attempt at this bill in the 2005 session.

HB 173 (SB 201) (supported)**Tax ID Number of Drivers Licenses (passed; signed by Governor)**

(Representative Miguel Garcia; Senator Richard Martinez)

Last year, legislators passed a law giving the Secretary of the NM Department of Taxation and Revenue the authority to determine which identification documents the Motor Vehicle Division would accept for drivers' license applications. This

Continued on p. 15

THERE'S A NEW OPPORTUNITY FOR LESBIANS, GAYS, BISEXUALS, and TRANSGENDERS in SANTA FE

OPEN HANDS IS SPONSORING SUPPORT GROUPS FOR SENIOR [50+ YRS] LGBTs

On Sunday, March 23, 2003, we are having a delicious Brunch at Open Hands from 11am to 1pm to welcome all who are interested in finding out about and forming the groups. Come and meet old and new friends. Meet the four facilitators. We are creating another step in building community and support for each other.

PLEASE RSVP BY MARCH 19

You can call: John Daw 983-2089 Ro King 438-8862
Larry Hays 699-6016 or Elizabeth Stirling 983-1583

WE LOOK FORWARD TO SEEING YOU ON MARCH 23 AT OPEN HANDS:

2976 RODEO PARK DRIVE EAST

[near the intersection of Sawmill and Rodeo Drive]

SPREAD THE WORD

year, immigrant advocacy groups introduced a bill that would allow applicants to use an Individual Tax Identification Number (ITIN) in lieu of a social security number for purposes of identification. This would extend the privilege of lawful driving to all immigrants, regardless of status, and contribute to public safety by ushering all immigrant drivers through driver testing procedures. The law would also make all immigrants eligible for driver's insurance. ACLU supported the bill because it removes a main pretext that local police officers sometimes use to arbitrarily enforce federal immigration law and profile people of Hispanic descent. Legislators clearly were impressed by the grassroots support for this bill. The ACLU played a mostly behind the scenes role and followed the lead of organizations like Enlace Comunitario in Albuquerque and Somos Un Pueblo Unido in Santa Fe. The bill passed both houses of the legislature and was signed by the Governor on March 18th.

ANTI-DISCRIMINATION

HB 314 (SB 28) (supported)

Sexual Orientation Discrimination (passed)

(Representative Gail Beam; Senator Cisco McSorley)

This bill would amend the Human Rights Act to prohibit discrimination based on sexual orientation and gender identity in housing, employment, public accommodations, and credit. Religious and denominational organizations would be exempt. An amendment on the House floor changed the Senate bill to apply only to employers with 15 or more employees. The bill is awaiting the Governor's signature.

HB 453 (supported)

Protection of Genetic Privacy (died)

(Representative Danice Picraux)

HB 453 would have amended the Human Rights Act to prohibit employers from using genetic information in any employment-related decisions, including hiring, discharge, promotion, demotion, compensation and terms, conditions and privileges of employment. With improvements in technology and growing demand for DNA sampling in the health care, insurance, and corrections industries, HB 453 becomes increasingly important. This bill made it out of the House and received a Do Pass in Senate Judiciary, but never got a final vote on the Senate floor. We will work on protection from genetic discrimination again in the 2005 session.

YOUTH AND REPRODUCTIVE RIGHTS

HB 568 (SB 179) (opposed)

Teen Curfew (died)

(Representative Richard Cervantes; Senator William Payne)

A perennial threat during the legislative sessions, these bills sought to amend the state's Children's Code to 'empower' local governments to impose teen curfews and enable police to detain children overnight and fine parents for violations. A similar ordinance was passed several years ago in Albuquerque under the Chavez administration but was successfully challenged by the ACLU of New Mexico. Like the Albuquerque ordinance, the teen curfew bills have many flaws and serious consequences for children and their parents. Again, the City of Albuquerque led the lobbying effort in support. SB 179 was tabled in Senate Public Affairs and HB 568 was tabled in the House Judiciary.

H328, H344 (S309) (opposed)

Parental Notification Act (died)

(Representative Larry Larranaga; Rep. Bengie Regensberg; Senator Phil Griego)

These bills would have required physicians to give parents prior notification to performing abortions for young women. ACLU-NM opposes parental notification on the grounds that it infringes on the privacy rights of minors. Coming out of the 2002 legislative session, we did not anticipate having enough votes in relevant committees in order to kill these bills. Nevertheless, both House bills were tabled in House Consumer and Public Affairs. The Senate version passed the Senate Public Affairs Committee but died in the Senate Judiciary.

HB119 (SB 314) (supported)

Sexual Assault Survivors Emergency Care (passed)

(Representative Mimi Stewart; Senator Michael Sanchez)

Under threat of fines, these bills require health care facilities to provide medically accurate information and emergency contraceptive services to sexual assault survivors. The Senate version was tabled on the Senate floor but HB 119 was signed and is awaiting the governor's signature.

Capital Punishment

HB 377 (SB 651) (supported)

Abolish the Death Penalty (died)

(Representative Gail Beam; Senator Cisco McSorley)

The movement to replace the death penalty with life without parole enjoyed short-lived success in the House this session. HB 377 passed the House Consumer and Public

Legislature, continued from p. 15

Affairs Committee on a 6 to 1 vote and received strong testimony during its hearing in the House Judiciary. Advocates believed they had most of the needed votes to pass the bill out of the House. Unfortunately, the bill was held up in the House Judiciary in order to rewrite language outlining the conditions of life without parole. Momentum for the bill died and HB 377 stalled in committee. SB 651 was never heard in the Senate Judiciary Committee.

Other issues:

The ACLU-NM worked with the New Mexico Criminal Defense Attorneys Association to fend off a number of bills that would have expanded penalties for sex offenders after they had completed their criminal sentences. These included proposals prohibiting out-of-state

sex offenders from moving to New Mexico and requiring a 20-year parole period without any provisions for rehabilitative therapy. We also collaborated with criminal defense attorneys to support bills that would have improved due process rights in grand jury proceedings and videotaping of criminal confessions. Only the grand jury bill passed, as did a bill giving prisoners access to DNA sampling to challenge prior criminal convictions.

As members of the New Mexico Alliance for Drug Policy Reform, we testified in support of bills to legalize medical marijuana and provide the alternative of drug treatment to incarceration. Both of these bills died. A bill that would have established a moment of silence before class in public schools never made it out of its first committee.

ACLU-NM on-line

Check us out at
www.aclunm.org

Thanks to the technological know-how of ACLU-UNM Law School Chapter president Bruce Thompson, the ACLU-NM website is up and running. Please add us to your Favorites list and check us for local civil liberties news updates.

NM Civil Liberties Foundation
P. O. Box 80915
Albuquerque, New Mexico 87198

PERIODICAL