



# THE TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

PAGE 2 Executive Director's Notes: "A" for Angel

PAGE 3 Bill of Rights Dinner Recap; 'Fight Back' by Becoming an ACLU Member

PAGE 4 Notice of Election; Donation & Membership Form



Join the ACLU-NM

E-Alert Network

Receive Legislative 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!

## Legislative Priorities

### REAL ID Gaining Widespread Resistance

Whitney Potter, Communications Manager

The Bush Administration and several members of Congress continue to push legislation that attacks the founding principles of this country. During the upcoming legislative session, the ACLU-NM will lead the fight to oppose Real ID, a national identity card that every American will need in order to fly on commercial airlines, enter government buildings, open a bank account, and more. The ACLU-NM will work with a coalition to pass a memorial sponsored by Sen. Michael Sanchez and Rep. Ken Martinez opposing Real ID in New Mexico.

Real ID is generating widespread resistance in states across the country. The National Governor's Association, National Conference of State Legislators, and the American Association of Motor Vehicle Administrators have all called for Real ID Act reform. We call on New Mexico policy makers to reject the implementation of the Real ID Act in New Mexico unless the Act is significantly modified to address the following fiscal, privacy and bureaucratic concerns.

Real ID increases the danger for all of us of identity theft and invasions of privacy. The creation of a single shared

database, as well as the requirement that each MVD store copies of all birth certificates and other documents, will create a one-stop shop for identity thieves. The one-size-fits-all approach required by the Act may actually increase the documents' vulnerability to counterfeiting.

Possession of a driver's license and a birth certificate will become essential for New Mexicans to satisfy Real ID's strict new identification requirements with a minimum of red tape. The elderly are particularly likely to lack licenses, as required by Real ID. The elderly are more likely to have lost birth records over time due to disasters and accidental loss, or never

had one like many other New Mexicans, all of which are needed to obtain a Real ID.

This Act is an unfunded federal mandate that will create enormous initial and ongoing administrative burdens and costs. It will also create burdens for individual citizens including higher driver's license fees and longer waits for licensing. Over the first 5 years of implementation, New Mexico's projected cost is at least \$43 million, according to recent report from the National Conference of

*Continued on page 2*

*"Identification is a powerful force for willing participants in our economy and society, but it will generally have little influence over terrorists... Identifying people merely tells you who they are. It does not reveal terror attacks beforehand."*

*—Jim Harper, "A Primer on the Real ID Act: Will the US Have a National ID Card?" ALEC Policy Forum, Summer 2006.*

## ACLU in the Courts

### Winter 2006 Legal Report

George Bach, Staff Attorney

**RUMBLE IN RIO** On behalf of two Albuquerque firefighters, cooperating attorney Jenny Wernersbach and George Bach filed suit against the City of Albuquerque, Mayor Chavez, and Public Safety Officer Nick Bakas. The City defendants had banned City employees from participating in the Rumble in Rio Charity Boxing event, citing "alcohol, violence, and scantily-clad women." After a half-day hearing, federal judge William P. "Chip" Johnson issued a preliminary injunction prohibiting the City from disciplining members of APD or the Albuquerque Fire Department who participate in the event.

**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 Protection and Advocacy attorneys Nancy Koenisberg and Rosemary Bauman along with attorney Peter Cubra and George Bach filed suit to enjoin the ordinance.

**EXCESSIVE FORCE RESULTING FROM ASTORGA SEARCH** Jane Gagne, Phil Davis, and cooperating at-

*Continued on page 4*

## ACLU-NM BOARD OF DIRECTORS

Gary Mitchell, *President*  
 Theo Crevenna, *Vice-President*  
 Mark Ayers, *Secretary*  
 Kevin Hoover, *Treasurer*  
 Lynda Bogar  
 James Chavez  
 Frank Clinard  
 Nick Engquist  
 Kate Ferlic  
 Stanley Hordes  
 Tova Indritz  
 C. Paulina Iñigo  
 Patricia Jones  
 Sharon Kayne  
 Ellen Lacayo  
 Steve Lawrence  
 Gene Lindsay (Emeritus)  
 Ed Macy  
 Chantel Reynolds, *National ACLU Board Representative*  
 Joe Sackett  
 John Salamack  
 Becca Shreve  
 Joan Spencer  
 Jack Steadman  
 Trish Steindler  
 Sandra Sublett  
 Larry Sullivan  
 Hollis Walker

## ACLU-NM STAFF

**Peter G. Simonson**  
*Executive Director*

**Diane Wood**  
*Director, Northern Regional Office*

**George Bach**  
*Staff Attorney*

**Amy Laugelli**  
*Senior Development Officer*

**Whitney Potter**  
*Communications Manager*

**Gail Gilb**  
*Office Manager*

**Brendan Egan**  
*Law Clerk*

**Scott Bryan**  
*Administrative Assistant*

## THE TORCH WINTER 2006/2007 VOLUME 41, NUMBER 4

Published quarterly by the  
American Civil Liberties Union  
of New Mexico

P.O. BOX 566  
 Albuquerque, NM 87103  
 Tel: (505) 266-5915  
 Fax: (505) 266-5916  
 info@aclu-nm.org  
 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.

## Executive Director's Notes

### "A" for Angel

On the surface of it, the story of Roberto and Linda Vasquez doesn't seem so noteworthy. The homeowners association of their Rio Rancho neighborhood told them to remove a sign that they had displayed on the side of their home with a slide projector because it allegedly violated restrictive covenants of the area. It was an irksome demand, to be sure, but nothing to write home about, as they say.

On a scale of civil liberties seriousness, the Vasquez' complaint would lie somewhere on the opposite end of, say, denying jail inmates basic medical care or passing a law that allows the government to forcibly medicate people who have mental illnesses.

Dig a little deeper into the Vasquez story, and the facts become more interesting though. The sign that was being censored read "Impeach Bush"—an explicitly political statement.

The homeowners association cited the Vasquezes under a section of the homeowners agreement that limits illuminated signs. The house next door to the Vasquez' is festooned with Christmas lights and illuminated displays that say "Noel" and such. The glow is visible from blocks away.

And so it is with many of the homes in the Seven Bar North neighborhood at this time of the year.

But none of those homeowners have been cited for violations of the sign code. No, just the Vasquezes.

There is something profoundly offensive about being told by an outside authority that you cannot express yourself, on your own property, because your beliefs are unconventional or raise uncomfortable issues. That may not be a uniquely American reaction, but certainly Americans take the affront as seriously as any culture.

Perhaps that's why the Vasquez' conflict with the homeowners association captured the interest of local media like few of our cases have this year. Even CNN covered the story nationally.

And the experience has transformed Roberto Vasquez from a mild-mannered local business owner and all-around good neighbor, into a fiery, outspoken advocate of free speech. In front of the cameras, he brimmed with righteous anger over the suggestion by the homeowner's as-

sociation president that he put his political beliefs on a bumper sticker instead of on the side of his

house. He described the experience as a political awakening and waxed sentimental over the assistance that the ACLU had given him, declaring that the "A" in our acronym must stand for "angel".

These moments teach the lesson of freedom more deeply and completely than any constitutional law course. Few people ever have to confront the government or another authority when it blindly stamps out an attempt to express themselves. The ones who do however are truly touched by the experience. In that sense, the Vasquez' seemingly minor confrontation with abusive authority ranks right up there as one of our most important cases of the year.

\*\*\*

Do not let 2007 go by without renting "The Road to Guantanamo" from your local video store. The docudrama recounts the terrifying experience of three young Pakistani men who return to their country from Britain to attend the wedding of a friend and, on a whimsical detour to Afghanistan, are taken as prisoners of war by American forces. Soon they are hooded and handcuffed and put on an army transport plane to Guantanamo, where they endure harsh imprisonment, interrogations, and torture. Three years later they are released with no charges against them.

Surely, military commanders are primarily to blame for the atrocities committed in places like Guantanamo and Abu Ghraib. The rank and file just follow orders.

But Road to Guantanamo captures those moments when individual military men and women are faced with the personal decision of whether or not to inflict suffering on helpless, innocent human beings—and choose to indulge in their power. The movie will test your conviction in the now-standard motto, "we support our troops."



## Real ID

*Continued from page 1*

State Legislatures, the National Governors Association and the American Association of Motor Vehicle Administrators. New Mexicans could pay close to \$100 for a Real ID card. Before New Mexico spends the substantial resources Real ID will require, we owe it to our citizens to seriously question whether the Real ID Act will make us safer.

Ultimately, Real ID changes the very nature and mission of MVDs, from agencies responsible primarily for ensuring the safe operation of vehicles on state roadways, into a wide-ranging enforcement agent of the federal government in areas from immigration rules to Social Security fraud. Despite improvements in customer ser-

vice in recent years, many New Mexicans already dread the experience of visiting our Motor Vehicle Division offices to apply for drivers licenses. For many New Mexicans, REAL ID will make the process a true nightmare.

### Get Involved!

Take a stand against longer lines, higher fees, and less privacy. As the battles over Real ID unfold in the states, the ACLU-NM will alert you to opportunities nationally and within New Mexico to contact lawmakers or other officials and let them know that you oppose this costly, invasive, and ineffective law.

For more on the ACLU's concerns with the Real ID Act, go to: [www.realnightmare.org](http://www.realnightmare.org).

Visit [www.aclu-nm.org](http://www.aclu-nm.org) for information on other ACLU-NM legislative priorities.



Peter Simonson, Executive Director

## Event Recap

# 2006 Bill of Rights Dinner a *Success!*

On Saturday, November 11, 2006, members, supporters, and friends of the ACLU-NM joined keynote speaker Steven Shapiro, ACLU National Legal Director at Hotel Albuquerque for the 2006 Bill of Rights Dinner. By all accounts, the dinner was a great success! Phil Davis, Co-Legal Director of the ACLU-NM Legal Program gave an update of ACLU-NM accomplishments in 2006 and ACLU-NM Board Member Steve Lawrence moderated the evening program as Master of Ceremonies. Jim Scarantino received the award for *Cooperating Attorney of the Year* and ACLU-NM Board Member Joyce Briscoe was posthumously honored as *Civil Libertarian of the Year* with a moving tribute. Read *The Torch* for information on the 2007 Bill of Rights Dinner or contact the Development Department at (505) 266-5915 ext. 1001 or [alauelli@aclu-nm.org](mailto:alauelli@aclu-nm.org).



*Phil Davis, Co-Legal Director of the ACLU-NM Legal Program presents 2006 accomplishments.*



*(Above) Peter Simonson, ACLU-NM Executive Director & Keynote Speaker Steven Shapiro, ACLU National Legal Director. (Below) John Briscoe accepts an award for ACLU-NM Board Member Joyce Briscoe posthumously honored as Civil Libertarian of the Year.*



*(Top) ACLU-NM Cooperating attorney Jim Scarantino speaks on Voter I.D. after receiving Cooperating Attorney of the Year award. (Bottom) ACLU-NM Board Member Steve Lawrence moderates the evening program as Master of Ceremonies.*

### CHAPTER NOTES

#### Northern New Mexico Chapter

The Northern New Mexico Chapter of the ACLU-NM holds its Board meetings monthly, on the second Saturday of every month. Attendance is welcomed by any Northern ACLU member--your participation and your opinions are important.

Meetings are held at the brand new ACLU-NM Northern Regional office at 621 Old Santa Fe Trail, Suite 16. Suite 16 is all the way in the rear of the 621 complex, with plenty of parking.

The meeting schedule for the first half of 2007 is as follows. All meetings are from 10 AM to 12 PM.

Saturday, January 13  
 Saturday, February 10  
 Saturday, March 10  
 Saturday, April 14  
 Saturday, May 12  
 Saturday, June 9

Join us! If you haven't met Diane Wood, Director of the Northern Regional ACLU-NM Office, now's your chance. Let us hear your views! Get involved!

Direct questions about the Northern New Mexico Chapter to Chapter Board President Steve Marvin at [infoaclu@aol.com](mailto:infoaclu@aol.com).

To learn more about an ACLU chapter in your area, visit [www.aclu-nm.org](http://www.aclu-nm.org).

### INTERN WITH THE ACLU

Information on how to apply for the Joyce Briscoe Internship is available online at [aclu-nm.org/about/ops](http://aclu-nm.org/about/ops).

## ACLU Membership

### Help the ACLU-NM 'Fight Back' by Becoming a Member

*Amy Laugelli, Senior Development Officer*

In 2006 we witnessed unprecedented threats to civil liberties in New Mexico and across the United States, and once again, the ACLU-NM responded to each and every threat. When the New Mexico Department of Health attempted to force an employee to remove anti-war postings, the ACLU-NM was there, fighting back. When three female inmates at the McKinley County Jail were sexually abused by a corrections officer, the ACLU-NM was there, fighting back. In 2007, we're going to continue to fight back, and we have a challenging agenda ahead of us.

We need a strong membership behind us as we prepare to undertake some of the most significant civil rights cases in our history. We need a strong membership as we go forward to demonstrate that New Mexico is not a place where fundamental freedoms will be denied. If you are not already a member of the ACLU-NM, please take a moment to become a member for just \$20 or purchase a household membership for \$30. If your membership has lapsed, please take the time to renew your membership. There has never been a more important time than now to be a card-carrying member of the ACLU-NM.

Becoming a member of the ACLU-NM automatically makes you a member of the National ACLU plus any chapters in your area. A membership with the ACLU is good for one year, after that you will need to renew your membership on a yearly basis. Please contact the Development Department at (505) 266-5915 ext. 1001 or [alauelli@aclu-nm.org](mailto:alauelli@aclu-nm.org), visit us online at [www.aclu-nm.org](http://www.aclu-nm.org), or fill out the form on the next page. *Thank you for taking a stand and fighting back!*



### NOTICE OF ELECTION: ACLU-NM BOARD OF DIRECTORS

If you desire to run for one of the seven positions on the ACLU-NM Board of Directors that will come open on April 1, 2007 please send a 250 word statement of interest to the ACLU-NM Board Administration Committee to be considered as a Board nominee. Send your statement by February 19, 2007 to be published in the next issue of *The Torch*. Please mail or fax statements to:  
Board Admin Committee  
PO BOX 566  
Albuquerque, NM 87103  
Fax: (505) 266-5916



Please make a tax deductible gift to the New Mexico Civil Liberties Foundation. Donations to the NM Civil Liberties Foundation support the legal and communications work of the ACLU-NM. For questions regarding donations or the work of the NM Civil Liberties Foundation, please contact the Development Department at (505) 266-5915 ext. 1001 or [alauelli@aclu-nm.org](mailto:alauelli@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 below and send it back to us.



## ACLU in the Courts

Continued from page 1

torney Frannie Crockett filed suit in September 2006 on behalf of two families who were mistreated by Bernalillo County Sheriff's Office deputies and APD officers during the search for Michael Astorga. One of the families includes a veteran New Mexico State Police (NMSP) officer, who was actively attempting to cooperate in the search.

**"IMPEACH BUSH" SIGN** With cooperating attorney Nancy Hollander, George Bach and Brendan Egan addressed the complaints of a Westside resident whose homeowner's association has instructed him to remove his lighted "Impeach Bush" sign. With ACLU-NM heed, the sign went back up on December 1, 2006.

**ALBUQUERQUE VOTER I.D.** Cooperating attorneys Jim Scarantino, Joe Kennedy, Shannon Oliver, and Scott Cameron have completed final summary judgment briefs against the City of Albuquerque regarding the new Voter I.D. ordinance that passed during the October 4, 2005 municipal elections. Both sides have filed these motions, asking the Court to rule as a matter of law. The new ordinance requires I.D. at the polls, but not for absentee ballots and it will most likely have a disparate impact on people of color in violation of the Voting Rights Act.

### NEW MEXICO JAILS

**Dona Ana:** George Bach and Nancy Koenisberg of Protection and Advocacy met with the Dona Ana County Detention Center Administrator in June 2006 to discuss problems with medical care and mental healthcare services at the jail. Cooperating attorney Peter Cubra is also working the case. The County has agreed to permit a jail conditions expert to inspect the jail in December 2006. Nancy Koenisberg and George Bach will escort the expert.

**San Miguel:** George Bach and Brendan Egan, along with Miguel Chavez of Protection & Advocacy, are investigating conditions at San Miguel County Detention Center, including the use of chains and padlocks on cell doors.

**RCC:** Led by new lawyer and cooperating attorney Brandt Milstein, a team of local lawyers (Mark Donatelli, Marc Lowry, Peter Cubra, Phil Davis, and George Bach) are working with lawyers from the national ACLU to investigate conditions at the Regional Correctional Center (RCC) in Albuquerque. The group is also addressing what appears to be illegal prolonged detention of undocumented immigrants.

**BUCK ET AL., V. CITY OF ALBUQUERQUE [WAR PROTEST CASE]** *Buck* arose out of the violent response of Albuquerque police to anti-war demonstrators on March 20, 2003, marking the invasion of Iraq. Discovery from this case has revealed that Albuquerque Police Department (APD) officers were instructed to covertly participate in and spy on community activities to organize this demonstration. Cooperating attorneys Mary Lou Boelcke, Larry Kronen, David Stotts, Peter Schoenburg, Cammie Nichols, Cindy Marrs, and Co-Legal Director Phil Davis have completed discovery and Plaintiffs' summary judgment responses. The trial is expected to be set for early 2007.

**NEW MEXICO STATE FOOTBALL ANTI-MUSLIM DISCRIMINATION** ACLU-NM filed suit on behalf of three Muslim football players against New Mexico State University (NMSU) football coach Hal Mumme. Cooperating attorney Joleen Youngers is working with George Bach on the case, along with San Francisco sports lawyer Richard Minkoff. The only Muslim player who wasn't kicked off the team has asked to join the lawsuit as a plaintiff, citing hostile environment complaints. An initial scheduling conference was recently held before U.S. Magistrate Judge William Lynch. Written discovery questions have been drafted and will be served on Defendants in short order.

**DEA - AMTRAK** Cooperating attorney Zach Ives and George Bach filed suit on behalf of two Los Angeles residents of Armenian origin who were assaulted by DEA agents searching their luggage at a stop here in Albuquerque. It is suspected that the couple was profiled based on their last name. When the man protested the agent's handling of the luggage, the agent allegedly roughed up the couple. DEA agents also stole the man's camera after he photographed his wife's injuries. An initial scheduling conference was recently set by the Court so that discovery may begin. The U.S. attorney's office will defend the case.

**CIBOLA COUNTY SHERIFF'S DEPUTY** Cooperating attorneys Bryan Davis and Kip Purcell of the Rodey Law Firm filed a complaint on behalf of a Guatemalan national who was stopped without apparent probable cause and "shaken down" for most of the money in his possession by a Cibola County Sheriff's deputy. The complaint alleges Fourth Amendment, Due Process, and Equal Protection violations, along with state law tort claims.

**UNM LAW CLERK** Brendan Egan, our new ACLU-NM law clerk, began in early September 2006 and has hit the ground running. A second-year student at UNM Law, Mr. Egan brings his considerable energy, insight, and dedication to ACLU-NM for 20 hours every week.

# 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:

- |                   |                            |
|-------------------|----------------------------|
| \$10,000          | Executive Directors Circle |
| \$5,000 - \$9,999 | Liberty Council            |
| \$2,500 - \$4,999 | Constitution Circle        |
| \$1,000 - \$2,499 | Roger Baldwin Circle       |
| \$500 - \$999     | Guardian of Freedom        |
| \$250 - \$499     | Safe and Free Council      |
| \$100 - \$249     | Defenders Circle           |
| OTHER             |                            |

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

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

- I want 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