



Winter 2005 Vol. 39 No. 1

TORCH

Notice:
Board election ballots must be received by March 21. See pages 4 and 5

ACLU-NM actions in Santa Fe: what we support and what we oppose. See page 3

Annual Membership Meeting is April 30. See page 6

Central New Mexico Chapter Forms and the state office gains a new Administrative Manager. See page 6

National ACLU staff conference in Albuquerque ends with a performance of Patriots. See page 7

The Executive Director on morality and ethics. See page 2

The Legal Docket: Nude devil-chicks, frivolous defamation and more: See page 8



ACLU Beefs Up Legal Power To Protect Civil Liberties

For the first time in its 43-year history, the American Civil Liberties Union of New Mexico has hired a full-time attorney to investigate and litigate civil rights matters in the state.

Attorney George Bach joins the ACLU staff after three years of committed volunteer work to the organization, including the filing of one of the ACLU's most noteworthy recent cases, a successful challenge to Albuquerque's Sex Offender Alert Program. Bach's position is funded, in part, by a grant from the national ACLU organization.

"This is an exciting development not just for the ACLU, but also for the state as a whole," said ACLU Executive Director Peter Simonson. "New Mexico has precious few resources to support organizations and private attorneys to litigate civil rights cases.

"George's position is unique. He will allow us to take cases that previously we couldn't find volunteer attorneys to litigate, and he will enable us to respond to civil rights violations more immediately. George makes us a force to be reckoned with."

"This is a particularly challenging and critical time for protecting civil liberties in our country," Bach said. "I am thrilled to be able to devote full-time work to this cause in New Mexico. I especially look forward to working with the incredible network of committed ACLU volunteer attorneys who helped put this organization on the map."

Bach graduated from the University of New Mexico School of Law in 2002. He immediately took up practice with the Law Offices of K. Lee Peifer, primarily litigating cases involving employment and labor law.

In 2004, Bach and Peifer successfully settled an ACLU-sponsored case against officials from the Luna County Detention



photo by Jeremy Schwehn

Center for firing several employees who attempted to organize in support of then-gubernatorial candidate Bill Richardson.

Along with fellow attorney Kari Morrissey, Bach convinced State District Court Judge Ted Baca to grant an injunction halting the enforcement of Albuquerque's first sex offender management law, "SOAP", claiming that it effectively "banished" law-abiding citizens from the city. Bach recently defended the decision before the state Court of Appeals.

"Although he has only been practicing for a few years, George's skill and perceptiveness as a litigator have won him the respect of peers and of those who have opposed him in court," Simonson said. "We are lucky to have a lawyer of his caliber and commitment to civil liberties join our team. The public will definitely see the impact he makes in the state of New Mexico."

The Debate over 'Moral Values'

BY PETER G. SIMONSON

"Where is the morality in requiring a young girl to obtain permission for an abortion from the same parent who raped her?"

"Where is the morality in subjecting prisoners at Guantanamo Bay to torture?"

"Where is the morality in telling two people who share a lifetime commitment to one another that their relationship cannot be recognized under law?"

These were the questions that ACLU Executive Director Anthony Romero posed to the audience of over 300 ACLU members who attended the 2004 Bill of Rights Dinner last December.

Romero's point? If "moral values" were the deciding factor in the last general election, as exit polls suggest, then organizations like the ACLU must do a better job of demonstrating to Americans the moral meaning of our work. We must learn to use the language of morality and refuse to surrender the moral high ground to the neoconservatives.

But Romero's own first stab at framing the ACLU's issues in moralistic terms belies the complexity of this endeavor. He resorts to rhetorical questions about the morality of our positions, rather than confidently taking up the language of "family", "responsibility", respect for authority, and even faith—the common touchstones of "morality." It's not enough to show what the other side isn't; we have to show what our side is.

It's my opinion that civil libertarians are more comfortable talking about "ethics" than they are about "morals." "Ethics" have the ring of objectivity—a science-based assessment of what's right and what's wrong based on how one's behavior affects the rest of the world. "Morals" on the other hand are subjective and virtually inextricable from religious tradition—a culturally-informed system for distinguishing the "good" from

the "bad" that may have no relation to material effect. Christian fundamentalists wouldn't balk at characterizing a marriage between a man and a man as "immoral," but would they, or anybody else, construe it as "unethical?"

How does the ACLU assume the trappings of "morality" when perhaps its most essential mission is to hold

Civil libertarians are more comfortable talking about "ethics" than they are about "morals."

government accountable to an objective structure of laws, rather than allow it to indulge in the arbitrary whims of culture and religion? How does the ACLU speak the language of moral values, when we so often find ourselves battling the creep of prayer and religious symbolism into the discourse of government?

The project isn't impossible, but it is complex. In some places morality-based arguments run quite close to our issues. Take our opposition to Florida's ban on gay and lesbian adoptions: "The state should have no right to interfere in the sacred environment of the home and deny a child the ability to grow up in a loving family." Family and faith. The connection is obvious.

Reproductive rights, though, are a little more difficult. Defending a woman's right to control what happens to her own body is an ethical stand, but does it translate into concepts of respect and love of family?

But a more trenchant question looms. Consider the source of information that has inspired our reevaluation of how the ACLU frames its issues: the mainstream media. The very same

media that have been positively beaten into submission over the last thirty years by a well-funded, highly-coordinated campaign to convince the public that liberal bias dominates the press.

Why should we trust that the media are reporting to us an irreducible fact about Americans' opinions? Why shouldn't we suspect that the media are engaging in some framing of their own when they assert that most Americans' concerns center on the moralistic?

Maybe "moral values" are nothing more than lofty shorthand for opposition to abortion and marriage equality. Maybe "moral values" are simply code words for patriarchal authority and fundamentalist Christian beliefs. Maybe the media are telling us what a highly opportunistic class of conservative ideologues and corporate capitalists wants us to believe, and not what we actually do.

If those suspicions are true, then no amount of wordsmithing will convert our values into "moral" ones.

TORCH

Publisher: Peter G. Simonson
Editor: Ruth J. Koury
Production: Annette Chakerian

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

Publication Number: ISBN 0164-8462 USPS
045-990

The Torch is published quarterly 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. Signed articles in The Torch represent the writer's view, which is not necessarily that of the ACLU of New Mexico.

www.aclu-nm.org

Where Are We Now in the Legislature?

BY JOYCE BRISCOE

ACLU-NM is supporting dozens of different civil liberties issues in the state legislature. We are also actively opposing many bills.

What We Support

Some of the issues we support that are currently in the forefront include:

No state funding for local and state law enforcement agencies to enforce federal immigrant laws (SB103). This bill, sponsored by Senator Richard C. Martinez, passed the Senate on a 21-20 vote and now goes to the House.

ACLU is one partner in a coalition of groups (e.g. ENLACE, Somos un Pueblo Unido) who oppose using state and local authorities to enforce federal immigration. There is no additional funding or training for local law enforcement to take on these additional responsibilities.

Because they are not trained in the different levels of residency status, the risk of racial profiling increases. Immigrant communities are reluctant to come forward as witnesses or as victims of crimes if they fear members of their families may be reported to INS.

The Espanola and Santa Fe city sheriffs and the president of the State Fraternal Order of Police testified for this bill, as well as the prosecuting attorneys association and the NM Criminal Defense Lawyers Association and the Archdiocese of Santa Fe and City Councilor Eric Griego.

RFID (Radio Frequency Identification Devices) (HB 215) would have protected consumers privacy by requiring the removal of radio frequency identification tags on consumer goods at point of purchase. It would also have limited business release of nonpublic personal information.

Although this bill, sponsored by Representative Mimi Stewart, passed unanimously out of the House on Consumer and Public Affairs Committee, it died in a later committee. We will come back in 2007 with another bill.

Genetic Privacy (HB 183) would

Use our website to follow the Legislature

Check out the blog on our website for the latest action alert or sign up at the ACLU-NM Info Page, <http://mailman.swcp.com/mailman/listinfo/aclu-nm>.

expand New Mexico's Human Rights Act to ban discrimination in employment, housing, public accommodations and credit based on a person's genetic information.

This bill was introduced by Representative Danice Picraux and it also has passed unanimously out of the House on Consumer and Public Affairs Committee. Our privacy coalition (including AARP, League of Women Voters, NM Public Interest Research Group, NM Federation of Labor and NM Foundation for Open Government) is working on this, RFID and a Financial Privacy bill together.

The Domestic Partners Rights and Responsibilities Act (SB576) will give same-sex couples who get a domestic partner license the same rights as married couples in New Mexico. Senator Cisco McSorley introduced this bill. ACLU supports this bill in partnership with Equality New Mexico.

To appreciate the differences between this bill and the *Defense of Marriage Act (HB 445)*, introduced by Representative Gloria Vaughan, go to our Website, www.aclu-nm.org, and click on the Weblog in the right column. Click on Legislative Alert #7.

Financial Security Act (HB 364) sponsored by Representative Danice Picraux will strengthen data privacy laws in New Mexico by giving consumers more control over the sharing of their sensitive information by financial institutions.

Repeal of the Death Penalty (HB 576). Need we say more? This effort is one of

three bills sponsored by Representative Gail Beam; the other two would address victim reparations, hotline assistance (*HB 577*) and family leave so that victims and their families can testify in court (*HB 578*). All passed the House committee.

What We Oppose

Defense of Marriage Act (HB445), introduced by Representative Gloria Vaughan, was the worst of the bills defining marriage as only between a man and a woman. It was tabled (effectively killed) in the House Consumer and Public Affairs Committee. There remains, however, a similar bill (*SB 597*) introduced by Senator William Sharer.

Teen Curfew (HB 471), introduced by Representative Al Park, involves issues of due process, equal protection and, perhaps, even false imprisonment (if young people are detained).

Random Drug Testing for Elected Public Officials (SB20) sponsored by Senator Komadina. Our issue with this bill is a lack of "probable cause" for all public officials to be tested.

Voter ID has been introduced in seven different bills which will probably be rolled one bill. Election and poll officials are not trained in meeting the discrepancies between a person's name as it appears on the poll list and as it may appear on a driver's license (e.g., middle name, married name). This may lower the voting turn-out for people such as students whose addresses frequently change.

What You Can Do

How can you help make a difference in ACLU-NM's legislative work?

First, you can call the Roundhouse in Santa Fe: 505.986.4300 to remind your legislators to do the right thing.

Second, you can check our Weblog on our website for fact sheets and the latest information on legislative issues. Go to our web page at www.aclu-nm.org.

Election: Board Candidates State Goals

FRANK CLINARD

I am a long-time member of the ACLU, having joined in 1962, and have served on the Board of Directors of the New Mexico ACLU for roughly a decade.

My civil liberties interests are broad, with emphasis on freedom of religion, speech, and association. With respect to religion, I am myself not a religious person but I vigorously defend the right of others to practice their faith without interference by government. Accordingly, I support school voucher programs that include private schools, even if those schools have a religious orientation. I believe that denial of vouchers for religious schools – thus forcing parents to use such schools to pay twice for their child’s education – violates the Free Exercise of Religion clause of the First Amendment.

I am a supporter of minor political parties as an expression of alternate views beyond those of the two establishment parties, and have been active for many years in the Libertarian Party. I am currently working with the leadership of the Green Party of New Mexico, with advice from the ACLU of New Mexico, to require the State government to rescind its anti-minor party rules.

Presently, such parties must do laborious double petitioning (for both the candidates and their party) to qualify for the ballot, which is a clear violation of the State constitution’s instruction to “guard against the abuse of elective franchise”. (Maryland has already been ordered by the courts to remove its double-petitioning requirement, after losing a lawsuit brought by that state’s Green Party.) In 2003, Governor Richardson appointed me to his Election Reform Task Force: I am making use of that connection in my efforts to have New Mexico correct its repressive policies in this area.

If re-elected, I pledge to continue my efforts to protect the civil liberties of all New Mexicans.

THEO R. CREVENNA

My concern with civil rights and liberties began in Germany when, as a teenager I witnessed the persecution of Jews

and was involved in providing some assistance to Jewish families (money, false passports, tickets, etc.) who had to leave Germany.

My second encounter which raised my civil liberties concerns in the McCarthy era was when some colleagues in our international organization were accused of communist activities and I was able to testify in some of the hearings. During this period I became a life member of ACLU.

The third difficult period happened in Louisiana with a segregated army that had more discriminatory severe actions both in camp and the adjoining city than I can describe.

Since returning to New Mexico in 1978, I was elected to the BOARD of ACLU-NM in 1979 and several times thereafter. I have had the honor to serve both as President and Vice President of the Board, as well on a number of committees.

The most important for me was and is the Legislative Committee providing assistance to our superb lobbyist and thereby trying to keep unacceptable measures out of or not passed by the NM State Legislature. Some additional concerns have been the budget and planning for the future of our organization.

I would greatly appreciate and be proud to receive your vote for election to the Board.

TOVA INDRITZ

I am a criminal defense lawyer recognized as a trial specialist in criminal law by the New Mexico Board of Legal Specialization. In my 30 years of representing accused persons who are presumed innocent, I have seen the ever-quicken erosion of the Bill of Rights, especially the Fourth, Fifth, and Sixth Amendments. The U.S. now incarcerates a higher percentage of its population than any other country in the world, and we persist as the only Western Country with the death penalty.

I have a particular interest in the harsh consequences of criminal convictions for non-U.S. citizens and was pleased to have

successfully represented the ACLU this past year before the New Mexico Supreme Court in a landmark case, *State v. Paredez*, 2004-NMSC-036, 101 P.3d 799 (2004), that ruled that criminal defense lawyers must ascertain if their client is a U.S. citizen, determine the immigration consequences of the charges, and fully inform the client of those immigration consequences. Like other cases the ACLU of New Mexico undertakes, this case will help thousands of people for years to come.

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

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

I sometimes speak to community groups on behalf of the ACLU on the USA PATRIOT Act, one’s rights in dealing with law enforcement, and other topics.

Eternal vigilance continues to be the price of liberty!

GARY MITCHELL

“Liberty”, my father said, “is precious and should never be taken without a fight.” I do not know if he ever read John Stuart Mills’ *On Liberty* but he made certain I was aware of the struggle between Liberty and Authority or as Daniel Webster put it, “The contest, for ages, has been to rescue Liberty from the grasp of executive power.” My father, a poor farmer, knew for many Americans, liberty was their only asset, but too often they gave it up out of ignorance, fear or apathy.

I know those early lessons had a large part in my becoming a member of ACLU. Thirty-eight years as an activist, twenty-eight years as a lawyer defending life and liberty has provided me with some insight regarding liberty. There are individuals who day in and day out fight to protect it – but no organization stands and protects liberty like the ACLU.

I have had the pleasure and honor to serve ACLU-NM as a member, a director, and in recent years, President of the Board.

ACLU-NM has increased its membership, organized more chapters, fought legal battles using tough, learned lawyers and is a force to be reckoned with. Today, we strive to have a member in every community, a voice wherever needed and to educate all so all can protect liberty. ACLU-NM is an amazing group, dedicated to preserving, protecting and restoring liberty.

I would like to think I have helped over the years. We have done much, but there is much more to do. I would like to continue to help, if you would have me.

JOAN SPENCER

My working career has been in teaching, at elementary, junior college and adult levels. Since moving to Santa Fe in 1985 I have taught at the Penitentiary of New Mexico and the Santa Fe Public Schools. For the past ten years I have taught English as a Second Language to adult immigrants, at

**Vote early!
Ballots due
by March 21**

Santa Fe Community College.

We moved to New Mexico from Ganado, Arizona where we lived and worked on the Navajo Reservation for six years. Earlier I was fortunate to work for four years as a constituent caseworker for Congressman Morris Udall in his Tucson office. Teaching in a variety of situations and working in a Congressman's office has given me a broad look at American society and the problems we all face.

I was raised in China, where my parents were involved in university teaching and United Nations relief work. After marriage, our family lived for four years in Dar es Salaam, Tanzania. I taught at the International School where our four daughters were students. Living outside the US gave us valuable insights into the lives and difficulties of people living in other countries and cultures.

I have been an admirer of the ACLU since college days, and later at the University of Arizona took a stimulating course on Constitutional Law, stressing civil liberties. The Bill of Rights is vitally important to me. I have been proud that the ACLU continually wages the battles necessary for the its protection. I am also passionately opposed to the death penalty, and have been active in repeal efforts in New Mexico.

I have put a high value on the opportunity to serve as a Board Member of the ACLU-NM. I hope you will give me the opportunity to continue this important work for another term.

BOARD OF DIRECTORS BALLOT FOR THE ACLU OF NEW MEXICO

Instructions for voting:

There are five (5) candidates running for eight (8) open seats. You may vote for any number of the five candidates. To vote, check or mark the box next to the candidate's name.

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

NM 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 it in a plain envelope marked "ballot" then place this envelope in a second envelope with your name and return address so that we can check to make sure you are a current ACLU**

member. Remember to include a second name if you have a household membership.

After we confirm membership, we discard the outer envelope and count the ballots anonymously. Ballots must reach the ACLU-NM office by **March 21, 2005**. Volunteers will count the ballots and all candidates will be notified of the results prior to posting the results in the next issue of the Torch and on the ACLU-NM.

Send ballots to:

**ACLU-NM
P. O. Box 80915
Albuquerque, NM 87198**

**Ballots must be in our office
by March 21**

Board of Directors Candidates in alphabetical order:

- | | | |
|--------------------------|--------------------------|---------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Frank Clinard |
| <input type="checkbox"/> | <input type="checkbox"/> | Theo Crevenna |
| <input type="checkbox"/> | <input type="checkbox"/> | Tova Indritz |
| <input type="checkbox"/> | <input type="checkbox"/> | Gary Mitchell |
| <input type="checkbox"/> | <input type="checkbox"/> | Joan Spencer |

Julie Miller: AM Extraordinaire

Julie Miller managed to survive the 1980s in New York City with her sense of humor intact. She had a number of challenging jobs there including Executive Assistant posts at Defense Contractor L-3 Communications and at Merrill Lynch, the bullish broker. But like so many of us, she fell in love with New Mexico and decided to chuck the Big City for cultural diversity, big sky, roadrunners and the high desert. She came to Albuquerque in 2003 and worked at Crosswinds Weekly where



she gracefully handled fifteen or so jobs at once. Steve Lawrence discovered that Julie not only performed her Administrative Assistant tasks flawlessly, but also that she was a knowledgeable film reviewer and versatile feature writer and proofreader.

Julie has already had a significant impact in the ACLU-NM offices, overhauling and upgrading the bookkeeping system and wrestling to the ground all manner of general chaos. She has instituted a number of financial and administrative controls that were long overdue and extremely welcome. Julie is cool under pressure, resourceful, and well organized. We are extremely fortunate to have her. Our only misgiving about her intelligence is that she keeps insisting that working for ACLU of New Mexico is her dream job. Julie is a long-standing member of the ACLU.

by Steve Lawrence, photo by Julie Miller

Calendar

ACLU of New Mexico

Annual Meeting: April 30, 10:00am to 12:00 pm, Student Union Ballroom C, UNM

Bill of Rights Dinner: December 3

Central New Mexico Chapter

Meets the 1st Tuesday of each month in Albuquerque. Please call for location.

McKinley County Chapter

Meets the 2nd Wednesday of each month. The meeting place changes so please call for the location. Contact Ellen Lacayo at 505-722-6084.

Northern New Mexico Chapter

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

San Juan County Chapter

Meets the 3rd Thursday of each month at 7:00 pm at the Farmington Civic Center, 200 W Arrington, Farmington, NM. The room assignment is always posted in the lobby.

Southern New Mexico Chapter

Meetings are held at 8:00PM on the 1st Wednesday of each month at the Peace & Justice Center, 1210 E, Madrid in Las Cruces. There are no meetings held in July or August.

Southwestern Chapter

Meetings are held the 3rd Thursday of odd months (January, March, May...) at 6 PM in the main conference room of the Silver City Public Library.

Central New Mexico Group Starts First Year

Permanent officers will be elected this March by the new Central New Mexico Chapter of ACLU-NM. The interim board has already set up the group's by-laws and established monthly meetings, email alerts, and a newsletter. The new organization is well under way.

The chapter has five task forces based on the topics generated by the first meeting last December. These are:

Religious Freedom (John McGuffin, chair) on church/state issues: Education/Outreach (Mark Ayers, chair) focusing on youth; Racial Justice and Immigrant Rights (Beth Kaimovitz, chair); Freedom of Press and Assembly (Nancy Koenigsberg, chair), and Police Oversight (Kid Stevens, chair).

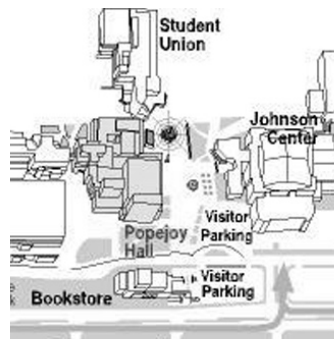
Meetings are held the first Tuesday of each month.

based on the CNM Beacon

ACLU-NM ANNUAL MEMBERSHIP MEETING

April 30, 2005
10:00 am to 12:00 pm
Student Union Ballroom C
University of New Mexico
Albuquerque

From I-25 take EXIT 224B toward DR. MARTIN LUTHER KING JR. AVE./CENTRAL AVE. ----
 Go south on Locust St. (serves as frontage road); turn east on Central Ave.; go about 1 mile on Central ----
 Turn left into the second entrance into UNM at the light at Stanford.



check www.aclu-nm.org in April for details on event speakers

National ACLU Holds Staff Conference in Albuquerque

The New Mexico affiliate was the host for the ACLU National Staff Conference of 2005, held January 27 – 30, 2005 at the Albuquerque Marriott. Over 350 staffers from affiliate offices around the country attended intensive, day-long informational sessions and workshops on a wide variety of civil liberties topics.

ACLU Executive Director Anthony Romero gave a rousing opening keynote address, setting the tone for a weekend of spirited debate, exchange of ideas and making exciting new contacts.

Some of the issues covered during the workshop sessions included how to connect in more meaningful ways with ACLU members; plenaries on race and criminal justice and women's rights; the next phase of the "Safe and Free" national campaign; and the many legal projects currently in progress that the ACLU has undertaken.

Steve Shapiro, Legal Director of the ACLU, gave the closing plenary, a densely fact-packed Supreme Court update. The scope of the civil rights legislation before the Court is very broad, and Steve's presentation was impressive and powerful.

The weekend was topped off by a theatrical treat: Albuquerque's own Theater-In-The-Making, in conjunction with the City of Albuquerque and playwright Joe Forrest Sackett, presented the political satire PATRIOTS at the KiMo Theater.

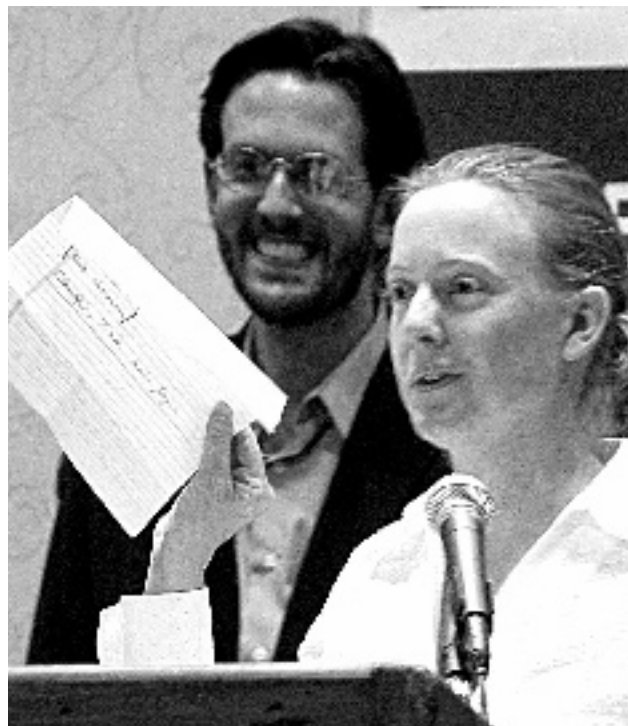
Through the generosity of TITM, director Paul Ford, Joe Sackett and many other friends and contributors, the event raised over \$3,000 to benefit ACLU-NM. The show was completely sold-out and was very well received by an enthusiastic audience.

After the performance, Executive Director Peter Simonson, joined by National Staff Legislative Counsel, Charlie Mitchell, conducted an informal discussion and Q&A on the urgency of defending civil liberties in today's political climate.

The staff of the ACLU-NM is deeply grateful to all our friends and wonderful volunteers who helped to make this a memorable and very special event.

written by Julie Miller

2004 Bill of Rights Dinner



photos by Oswald Werner

Award recipients at the ACLU-NM Bill of Rights Banquet held in Albuquerque last December included (counterclockwise from lower left) Louise Melling, Director for the Reproductive Freedom Project; Cathy Ansheles, a founding member of the New Mexico Coalition to Repeal the Death Penalty; and Lee Peifer, George Bach, and Kari Morrissey Cooperating Attorneys of the Year. Not pictured are Sanford Brickner of the *Santa Fe New Mexican*, recipient of the First Amendment Award, and Annette Chakerian, Volunteer of the Year. Anthony Romero, Executive Director of the ACLU was keynote speaker for the sold-out event. Kay Monaco of New Mexico Voices for Children served as MC.

San Juan County Chapter Celebrates Bill of Rights

Residents from around San Juan County joined together in December at the Farmington Civic Center to celebrate one of America's most important documents: the Bill of Rights. The Bill of Rights outlines individual freedoms guaranteed to all Americans, and for more than 27 years history teacher Emma Fitzpatrick has taught San Juan County students about those amendments and their impact.

"I think it is one of the most important things we can teach students", said Fitzpatrick, who attended the Bill of Rights celebration. Fitzpatrick thinks the Bill of Rights stands in grave danger, in part, because of the PATRIOT Act.

Rep. Tom Udall, DN.M., a guest speaker at the celebration, said the PATRIOT Act was passed with very little public input or debate in 2001 and in some ways, violated the Constitution. He urged residents to remain alert this coming year in regard to the PATRIOT Act because portions of it expire at the end of 2005.

Referring to a quote by Benjamin Franklin, Udall said there is a very fine balance between security and liberty and it is important for Americans to find where that balance lies.

adapted from article in *The Daily Times* by Valerid Gritton, reprinted with permission

ACLU Defends Clovis She-devils

Dean Young had had just about enough of bible-thumping moralists getting their way in Clovis. To protest a municipal law banning alcohol sales on Sundays, Young decorated his car with two window stickers depicting bare-breasted "she-devils." "I'm offended by church people saying I can't drink on Sundays, so I put the devil chicks on my car, because I figured it would offend them right back," Young said.

Clovis police cited Young under a state statute that makes it unlawful for a person to knowingly distribute or provide to minors any picture that depicts nudity or sexual conduct. There is no evidence that Young targeted minors with his stickers or did anything other than post them on his Ford Focus. According to Young, "The only reason I'm getting charged with this is because some overzealous, church-going detective got offended."

ACLU-NM Staff Attorney George Bach represented Young at his pre-trial hearing, during which it was revealed that the Assistant District Attorney had failed to give Young proper notice that his sticker violated the Sexual Material Harmful to Minors statute. George turned that finding into a motion to dismiss, which the judge granted without prejudice. However, the DA has now given Young proper notice and Young has 30 days to either remove the sticker or go to court.

The ACLU-NM will decide if we want a judge to review whether or not the statute applies to Young's circumstance. The ACLU and Young will also decide whether to proceed with claims against the Clovis Police Department for violations of Young's constitutional rights. (*City of Clovis v. Young*)

Superintendent Drops Frivolous Suit

Linda Bessett, Superintendent for the Central Consolidated School District, recently used a particularly nasty tactic to silence one of her public critics. She filed a frivolous defamation claim against Harry Descheenie, President of the Gadii'ahi Chapter of the Navajo Nation and member of CCSD's Indian Education Committee, for publishing an op-ed in the Farmington Daily Times that criticized the district's failure to comply with federal and Navajo standards for the teaching of the Navajo language to Navajo children.

The article was not defamatory, nor was it even directed specifically at Bessett, yet the superintendent retained private attorney Doug Compton to sue both Descheenie and the Farmington Daily Times. What is more, the School Board voted to reimburse Bessett for \$17,000 that she paid in attorney fees, alleging that the lawsuit was in the best interests of the students.

In August, 2004, ACLU-NM Legal Co-Director Jane Gagne filed a motion to dismiss the claims against Descheenie. Before the court decided the motion, Bessett realized the error of her ways and, last December, dropped her suit against Descheenie. If the ACLU-NM had not intervened, Descheenie would not have had the resources to mount a legal defense. (*Bessett v. Descheenie*)

ACLU Takes On Discrimination Suit

The Equal Employment Opportunity Commission filed a lawsuit on behalf of Babak Hazini, an Iranian-American, who alleged that his former employer, Smith's Food and Drug Centers, discriminated against him on the basis of national origin. Mr. Hazini retained George Bach to represent him as an intervenor in the lawsuit when George was at Peifer & Cornell law firm. George will continue to represent Mr. Hazini in his new role as ACLU-NM Staff Attorney. The case is in discovery and a settlement conference is set before U.S. Magistrate Judge Torgerson for March 31, 2005. (*EEOC and Hazini v. Smith's Food and Drug Centers*)

Other Case Developments

Trial has been set for March 7 in our sexual harassment, gender discrimination, and racial discrimination lawsuit against the NM Scorpions ice hockey team. (cooperating attorney: Katy Hammel.) (*Williams, et. al. v. W.D. Sports N.M., Inc.*)

Briefing is complete and oral argument is set for March 23rd in our appeal of District Court Judge Wendy York's decision to strike down only parts of the Albuquerque Sex Offender Registration and Notification Act (ASORNA), leaving some provisions intact. (cooperating attorneys: Melissa Hill, Eric Hannum, and Kari Morrissey.) (*ACLU of New Mexico, et. al v. City of Albuquerque*)

We are awaiting a decision from the Court of Appeals on our defense of District Judge's Ted Baca's decision to strike down Albuquerque's Sex Offender Alert Program (SOAP). (ACLU-NM Staff Attorney George Bach.) (*ACLU of New Mexico, et. al v. City of Albuquerque*).

Cooperating attorney Lee Hunt settled Fourth Amendment claims against NM state police officer Mitchell Maestas for illegally seizing the identification documents of Estrellita Rodriguez, a native of Espanola, under suspicion that she was an illegal alien and her documents were fake. (*Rodriguez v. Maestas*.)

ACLU-NM cooperating attorney Charlie Esty has taken over a lawsuit to challenge an overly vague and unconstitutional "Loud and Unruly Gathering" ordinance in Las Cruces. (*City of Las Cruces v. Bond*).