

THE TORCH

ACLU
New Mexico

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NEW MEXICO'S HISTORIC VOTING RIGHTS VICTORY

By Indigenous Justice Policy Advocate Austin Weahkee

When the New Mexico Voting Rights Act was signed into law, there was an air of relief and gratitude for the hard work and opportunity we had been presented. For the first time in New Mexico's modern history, voters, advocates, and elected officials will be able to collaborate meaningfully to engage more people than ever before.

There's so much eagerness in the community to get to work on connecting people to our collective power.

Its passage was a long time coming and the result of decades of work by multiple communities and advocacy groups in our state and nationally who never gave up on the fight to ensure everyone has the opportunity to vote.

We are so proud New Mexico is now a real leader in access to the ballot. While

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FROM THE DESK OF EXECUTIVE DIRECTOR PETER SIMONSON

The 2023 legislative session stands as one of the ACLU's most successful. In collaboration with community and legislative partners, the ACLU worked to pass bills strengthening voting rights and police accountability, ending life without parole for youthful offenders, and eliminating certain criminal fines and fees. All told, ten of our priority bills made it over the finish line, more than in any previous session.

But surely no legislative achievement is more noteworthy than the passage of bills strengthening New Mexicans' right to make independent decisions about their reproductive and gender affirming health care. Now, the State of New Mexico affords unique protections to patients, helpers, and providers of gender affirming care and abortion care against discrimination, harassment or prosecution from other states. It also explicitly forbids any "public body" from interfering with reproductive health or gender affirming care.

These are substantive guarantees that further anchor the unique freedoms New Mexicans deserve in determining their own futures and planning their families as they choose.

They come at a critical time. In the wake of the *Dobbs* decision, counties and cities in southeastern New Mexico are conspiring with national anti-abortion activists to pass ordinances banning abortion care. The aim of these laws is not just to ban abortion care in parts of New Mexico but also to provoke legal challenges that could work their way up through the federal courts to give the U.S. Supreme Court further opportunity to ban abortion nationwide.

The overturning of *Roe v. Wade* thrust New Mexico to the fore of the national fight to preserve abortion access. Not only are we one of the few southwestern states where abortion remains safe and legal, but we are also home to one of the few clinics in the nation that continues to provide critical access to abortion

care later in pregnancy. Anti-abortion extremists have their eyes on New Mexico and will stop at nothing to erase this crucial bastion of reproductive freedom from the map of abortion access.

The New Mexico constitution forbids the kinds of discriminatory health care restrictions that places like Hobbs, Clovis, and Roosevelt County have recently passed – restrictions that have already caused panic, chaos, and confusion in our communities. In response, Attorney General Raul Torrez challenged these ordinances on several constitutional grounds and the ACLU of New Mexico just filed an amicus brief in the case arguing that local policymakers are attempting to deny their communities essential health care protected by the New Mexico constitution and statutory law.

This is where the importance of our legislative victories comes in. In addition to the constitutional safeguards already in place, by creating law that explicitly forbids local governments from imposing restrictions on health care access, the ACLU and its allies have given the courts another clear and unequivocal basis for rejecting the ordinances. Our multi-pronged approach to protecting civil liberties is so important – it will take every tool in our tool box of litigation, legislative advocacy, and public education to ensure New Mexico remains a place where every person can make their own medical decisions without government interference.

Over the last year, we as a nation have learned just how fragile the right to abortion and gender affirming care is. We cannot shy from aggressively defending those rights at every turn. But our every move must be careful and strategic. The futures of families are at stake.

Yours in liberty,

A handwritten signature in black ink, appearing to read "Peter M. Simonson". The signature is fluid and cursive, with a large, stylized initial "P" and "S".

THE ATTACK ON ALBUQUERQUE'S UNSHELTERED COMMUNITY

By Davida Gallegos

Scott Yelton lost his home in September 2019 after losing his job and separating from his wife.

The Albuquerque resident struggled with the many, sometimes life-threatening challenges of being unhoused in New Mexico, but by mid-2022, he had found a way to create some stability and security.

He began living in Coronado Park, creating a space where he could stay warm at night, keep his belongings safe and cook himself a hot meal.

“[The city] suddenly closed Coronado Park and threw my stuff in a garbage truck. I begged them to give it back, but they acted like I wasn’t even there,” Scott said. “They took my stove, my tent, sleeping bag, clothes, and my birth certificate. But worse, they took family photos I can never replace.”

On August 17, 2022, the City of Albuquerque fenced off Coronado Park, forcing unsheltered New Mexicans to leave, often without even the basic items they needed to stay warm at night.

“ [The city] suddenly closed Coronado Park and threw my stuff in a garbage truck. I begged them to give it back, but they acted like I wasn’t even there”

tal personal belongings. They lost a sense of safety and community. This act displaced dozens of unsheltered Burqueños, many of whom still do not have a safe place to stay.

Many people displaced by the closure of Coronado Park have been forced to disperse into other areas across the city and continue to be met with shutdowns. Recently, people who had built a small community in the I-40 underpass near 1st Street and Indian School Road were forced to leave by police officers, leaving them again without community or a safe place to sleep.

In Albuquerque, and across the country, rising rents, historically low rental vacancy rates, and the decline of federally subsidized housing have led to a critical shortage of affordable housing units. Rents in Albuquerque increased as much as 20% in the first quarter of 2022. According to data provided by the New Mexico Coalition to End Homelessness, there are more than 1,300 unsheltered people in Albuquerque, many of them children.

While the city has acknowledged that there are not sufficient beds in existing city-run shelters, there has been little done to help get people housing. Several people, including Scott, said that living on the street was safer than staying at the Westside Shelter, where they faced theft and unsanitary conditions.

“I stayed at the Westside Shelter very briefly, but it was a toxic environment for me,” Scott said. “Believe it or not, I felt safer at Coronado Park. Folks looked after one another.”

The housing crisis impacts everyone but disproportionately hurts people with mental health concerns or disabilities that make it hard to find steady work. Being forced to move and having belongings confiscated increases instability, making it even harder to find work, get medications, see a social worker, or find permanent housing. **“They had no remorse, They even seemed jovial.”** Scott said that without a vehicle, replacing the documents the city threw away took months.

“It was a punch in the gut that the city had thrown my things away,” he said. “Pushing a shopping cart is not a criminal act, but we were treated that way.”

Criminalizing homelessness does not bridge the services gap or



Photo: Scott Yelton

UNSHELTERED

Continued from page 4

create affordable housing units. It only serves to displace and endanger people experiencing homelessness. Constantly forcing people to move and breaking up informal communities creates chaos and instability that undermines the city's efforts to reduce homelessness.

"I thought, they must be getting paid by the pound. They really were diligent about doing their job. They had no remorse," Scott said

about the city employees who threw away peoples' belongings during the Coronado Park closure. "They even seemed jovial."

After losing his home and community at Coronado Park, life got harder for Scott.

"It was devastating. I went into a pretty deep depression. Only because I had a few close friends who looked after me, was I able to get by," he said. "It was the lowest point in my life."

"Pushing a shopping cart is not a criminal act, but we were treated that way."

In December, the law firm of Ives and Flores, along with the ACLU-NM, the New Mexico Center on Law and Poverty, and attorney Nick Davis, filed a lawsuit on behalf of unhoused Albuquerqueans including Scott, to stop the city from unlawfully destroying encampments and property, as well as jailing, and fining people simply for not being able to afford a house.

"Criminalizing homelessness and displacing people does nothing to address its root causes," said Maria Martinez Sanchez, legal director at

ACLU-NM. "In fact, it exacerbates the problem. We know the solution – affordable housing. The city just needs to find the will and the courage to make it happen."

BECOME A GUARDIAN OF LIBERTY

The ACLU of New Mexico fights every day – in the courts and in the streets – to protect freedom and ensure equality for every person in our state. This vital work depends on our community of monthly supporters. We need you by our side – every donation counts.

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ACLU-NM KEEPS ADVOCATING FOR TORRANCE CLOSURE, IMMIGRANTS' RIGHTS IN NEW MEXICO

By Leonardo Castañeda

The ACLU of New Mexico has continued its advocacy for the rights of immigrants in New Mexico, highlighting the dangers of high-speed vehicle pursuits by immigration enforcement officials.



CBP VEHICLE PURSUITS

Over the past several years, New Mexico has witnessed several tragic high-speed vehicle pursuits by Border Patrol agents that ended in serious injuries and deaths.

These pursuits put everyone in our communities at risk, from the occupants of the vehicle being pursued to people driving home, to school or work. In March, a Border Patrol pursuit ended in tragedy near Lordsburg when the pursued vehicle crashed head-on into a New Mexico Department of Transportation truck, resulting in one death and at least four injuries.

Despite the incredibly high risk, these pursuits are often targeting immigrants suspected of nothing more than misdemeanor entry without inspection. Often, people seeking asylum at the border are forced into these dangerous situations by the U.S. government's punitive border policies and the lack of a humane, functional asylum system.

The ACLU of New Mexico and the ACLU of Texas, as well as coalition partners, have long advocated for more transparency and accountability in U.S. Customs and Border Protection's (CBP)

vehicle pursuit policy. In January, CBP announced a revised policy that was originally scheduled to go into effect in May but has been postponed until June.

"Preserving human life is paramount, and this policy makes that a central consideration by adopting many widely accepted best practices, such as banning dangerous techniques like PIT maneuvers. We can only wonder how many lives would've been saved had CBP implemented these best practices sooner," said Rebecca Sheff, senior staff attorney at the ACLU of New Mexico.

In early May, Sheff participated in a screening on Capitol Hill in Washington D.C. of an episode of the Al Jazeera English documentary series *Fault Lines* where they highlighted the case of an ACLU of New Mexico client whose son died following a Border Patrol pursuit.

Sheff also produced a policy brief, shared with Congressional offices in D.C., analyzing the revised vehicle pursuit policy.

"While we welcome the revisions to CBP's vehicle pursuit policy as a significant improvement and an important step forward for our border communities, we know that robust training and oversight will be essential to ensure compliance with this new policy," she wrote. "We will continue to seek accountability for actions by CBP officers and agents that cause harm in our communities."

#SHUTDOWNTCDF

The ACLU of New Mexico has also kept up the pressure on U.S. Immigration and Customs Enforcement (ICE) to terminate its contract to detain immigrants and asylum seekers at the troubled Torrance County



Photo: ACLU of New Mexico billboard along I-40 in Albuquerque.

Detention Facility in Estancia.

Another failed inspection was added to the mountain of evidence that Torrance is unsafe, when in February, the Department in February when the Department of Homeland Security (DHS) released an audit report indicating severe lack of compliance with the Prison Rape Elimination Act (PREA).

PREA standards are vital for ensuring a baseline level of safety for people being detained in prisons, jails, and detention centers. Torrance, however, failed to meet 11 of 39 applicable standards at the time of the audit in April 2022.

“This deeply troubling audit is further proof that ICE, CoreCivic, and Torrance County are unable to ensure the safety of people detained in the Torrance County Detention Facility,” Sheff said. “It’s long past time ICE terminates its contract and stops detaining people – including many asylum seekers who have faced harrowing journeys to the U.S. seeking protection – at this facility.”

The DHS Office of Inspector General called for the immediate removal of everyone detained at the facility in March 2022 because of “egregious conditions” discovered during an inspection.

People detained at Torrance have also reported unsanitary and unsafe conditions including overflowing sewage and cells that don’t unlock when they’re supposed to. Our partner organization Innovation Law Lab published a report in February describing a severe mental health care crisis at the facility.

ICE has ignored those calls and continues to pay the private prison company CoreCivic almost \$2 million a month to detain people at Torrance. Although the facility is operated by CoreCivic, ICE’s detention contract is with Torrance County.

As part of the ACLU of New Mexico’s push for ICE’s contract termination for Torrance, we partnered with the national ACLU for a series of billboards calling for closure.

The billboards, placed around Albuquerque, said “Seeking Asylum is Not a Crime” and “End Immigration Detention in Torrance County.” They were timed with nearly 95,000 messages that have been sent from around the country to the Biden administration demanding ICE stop signing new detention center contracts and close existing detention facilities.



STAFF PICK



GAME CHANGER

Game Changer is basically a game show. But it’s more than that. Every episode is a different game and the contestants (who are all improv comedians) have to figure out the rules as they play. It’s smart, surprising, laugh out loud funny, and frequently surprisingly touching.



- DANIEL WILLIAMS
ACLU OF NEW MEXICO POLICING
ACCOUNTABILITY STRATEGIST

WHY LANGUAGE ASSISTANCE IS VITAL TO THE HEALTH OF INDIGENOUS PEOPLE

By Maria Archuleta

In this interview, Senior Indigenous Justice Staff Attorney Preston Sanchez explains why access to language assistance is vital to the overall health of Indigenous people. The discussion stems from a lawsuit ACLU-NM and the Fine Law Firm filed against San Juan Regional Medical Center (SJRMC) for failing to provide Navajo elder, Larry Williams, with a certified Navajo language interpreter, leading to his misdiagnosis and untimely death in 2018.

One early, winter morning, Larry Williams's family noticed that he was speaking incoherently and had difficulty keeping his balance. They rushed him to the nearest emergency room at the SJRMC in Farmington. His wife, Lenora Williams, who usually translated for him during medical visits, had to leave for her own dialysis appointment. She expressed anxiety about leaving him, but SJRMC staff assured her he would be well cared for. Two of his adult daughters, who are not fluent in Navajo, remained with him.

According to medical records, SJRMC staff never considered Larry's language needs nor provided him with a Navajo interpreter. In its failure to communicate adequately with Larry, SJRMC staff failed to observe his altered mental state – a common symptom associated with the onset of sepsis. Instead, they only treated Larry for a simple urinary tract infection and discharged him that afternoon. Larry's undiagnosed condition continued to worsen. That same evening, his family rushed him back to SJRMC, where staff determined that he was suffering from severe septic shock. He died two days later.

Maria Archuleta (MA): Thanks for making the time, Preston. When I talk about this case with people, I get mixed reactions. Many, like me, are outraged. Others ask, "Why couldn't his daughters, who were with him at the hospital, interpret for him?" or "Did he really not speak English?" Could you talk about Native elders who speak primarily Indigenous languages and why they need interpretation?

Preston Sanchez (PS): New Mexico is home to 23 tribal nations. Among them, seven different Native languages are spoken. In fact, many of our Native elders today grew up in households and communities where those languages were – and still are – the primary languages spoken day-to-day.

In the case of Larry Williams, for example, who was 67 years old at the time of

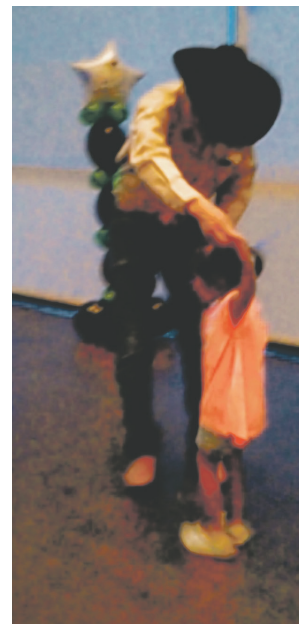


Photo: Larry Williams dancing with his daughter.

“San Juan Regional Medical Center has a legal duty to provide language assistance to its patients who are limited English proficient; and that means providing them a Navajo interpreter.”

his death, he spoke primarily in Navajo with his family. He was also a union welder for a really long time, working with other Navajo speakers. Throughout his entire life he had been immersed in the Navajo language and culture. Only periodically was he required to consult with doctors in English. However, his wife usually translated for him during those visits – but those visits were never emergency related visits.

His daughters speak some Navajo, but they're not fluent. More importantly, though, medical termi-

“His daughters talked about his deep knowledge of the Navajo language and Navajo traditions. People would seek him out for his wisdom. The loss of a traditional elder has a ripple effect across many generations.”

nology is very technical for anyone to understand. It would be extremely difficult for any person who speaks Navajo – or any language other than English – to be a translator between a doctor and patients like Larry who are limited-English proficient. That is why certain legal standards exist that require hospitals to provide language assistance to limited-English patients, like Larry, to ensure adequate communication occurs between medical staff and the patients they serve.

MA: This unfortunate scenario can take so many different forms. My family is from up north and my grandparents

Photo: Steven Baltakatei Sandoval



Photo: San Juan Regional Medical Center in Farmington.

spoke primarily Spanish. My paternal grandparents definitely would’ve needed a language interpreter to communicate about their medical needs. There’s no way I could have translated for them. For that matter, with my very imperfect Spanish, I would need one myself if I had a medical emergency in a Spanish speaking country.

PS: Absolutely. Imagine you visit a country where you

know only enough of the language to order tacos and a beer and maybe enough to haggle about a blanket at the local market. Maybe you even speak the language enough to have meaningful conversations with strangers. But, if

you were to have a medical emergency like Larry’s, where you feel confused, disoriented, unable to walk in a straight line, and unable to breathe – then you might be in trouble at a hospital. No one can comprehend what you’re saying, and you have no one to speak on your behalf. Any one of us would need an interpreter to help us communicate about our medical needs in that situation. We all need to be able to communicate and comprehend pretty complicated medical jargon to survive.

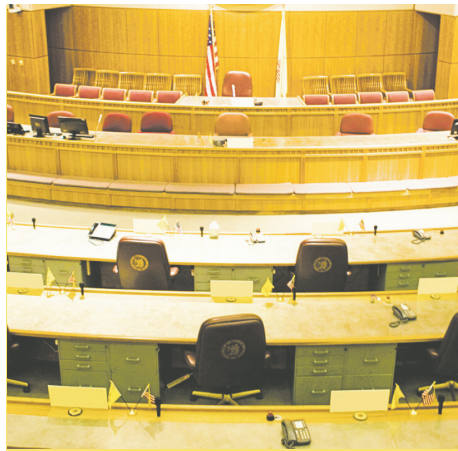
MA: The staff assumed Larry Williams spoke English?

PS: The doctor who diagnosed Larry did not think there was any language barrier. He was also not at all familiar with the term Limited-English Proficient and he didn’t know about any SJRMC policy or training requiring language assistance. According to the doctor, about 60% of the patients he serves are Navajo. This all points to a systemic problem at SJRMC and, we suspect, at other hospitals across the state. Medical staff appear to lack any awareness about potential language or cultural barriers.

MA: It’s beyond belief that the doctor could go through a whole treatment of a patient at a high risk of death and never notice that he wasn’t proficient in English. I know his daughters did their best to advocate for him, but could you tell me why we shouldn’t expect family and friends to interpret in situations like these?

PS: Even if Larry Williams’ daughters spoke perfect Navajo, it takes certified training to be able to con-

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ACLU CELEBRATES SIGNED LEGISLATION ON VOTING RIGHTS, REPRODUCTIVE RIGHTS, AND SMART JUSTICE

With your support, the ACLU of New Mexico, along with our partner organizations and allied lawmakers, achieved game changing wins for civil liberties this legislative session. Bills that vastly improve ballot access, protect New Mexicans’ fundamental right to body autonomy, and make the state’s criminal legal system more just, were signed into law by the governor.

READ THE FULL ARTICLE

[ACLU-NM.ORG/2023LEGRECAP](https://aclu-nm.org/2023legrecap)



LANGUAGE ACCESS

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convert medical terms from English to Navajo and vice versa. Not every medical term can even be translated into Navajo because the words in Navajo just don’t exist. Most of us don’t understand much medical terminology, and it’s not easy to understand what’s going on even when you are completely fluent in English. The same is true for legal matters. I can speak just a little bit of Navajo – enough to communicate with Navajo speakers about the weather – but would I be able to speak to clients about complex legal issues in Navajo? F** no. If I had a client who primarily speaks Navajo, he or she would obviously need a Navajo interpreter who specializes in legal matters. It would be unethical for me to assume that a limited-English proficient client would understand me – and vice versa.

Larry’s wife Lenora is fluent in Navajo and was usually with him at appointments, but she couldn’t miss her own dialysis appointment that day. But even if Lenora had been there, she shouldn’t have had to bear the burden of acting as a medical interpreter. Not to mention, SJRMC has a legal duty to provide language assistance to its patients who are limited-English proficient; and that means providing them a Navajo interpreter.



Photo: Preston Sanchez

MA: This tragic and senseless death shows the importance of how much education needs to happen about the needs of the diverse cultures in New Mexico.

PS: Absolutely, people’s lives depend on it.

It’s also important to remember that Larry’s death was not only a terrible loss to his family but to his entire community. His daughters talked about his deep knowledge of the Navajo language and Navajo traditions. People would seek him out for his wisdom. The loss of a traditional elder has a ripple effect across many generations. So, this situation is extremely unfortunate.

MA: One last question. What are you hoping to achieve with this case?

PS: We want New Mexico hospitals to know that they need to provide their Indigenous patients with adequate language assistance and that they’ll be held accountable if not. Language assistance is vital to the overall health of our Indigenous People.

MA: Thanks for talking to me.

PS: Anytime, Maria.



NEW MEXICO LEADS THE WAY ON TRANS RIGHTS

By Raychel Sanner

As a trans person, I can attest that it has been an extremely scary, upsetting, and anxiety-filled year, as state after state have increased their attacks on trans people across the country. We knew when hostile lawmakers started attacking children’s participation in sports that this was about more than children’s sports. Now, within a year of those attacks increasing in intensity, some states have all but banned access to gender-affirming health care for everyone, adults included.

However, the ACLU of New Mexico, partner organizations, and lawmakers set out to show the country that the trans community is valid, valued, and worthy of defense. This legislative session, we pursued an agenda to make our protections for trans rights amongst the strongest in the country.



As prominent trans rights activist and writer Erin Reed declared, New Mexico has been “added to a list of the top states for transgender people” to live safely and freely after this legislative session thanks to the passage of four major pieces of legislation.

Photo: Raychel Sanner

The first bill, the Reproductive and Gender-Affirming Health Care Protection Act, will shield patients and providers from out-of-state efforts to criminalize care by prohibiting any state governmental entity from sharing protected information or resources to assist in an investigation. Providers of these lifesaving types of care in New Mexico will be safeguarded from civil or criminal liability in other states and discrimination

from the licensing boards of their specialties. Another bill that was passed was the similarly named Reproductive



and Gender-Affirming Health Care Freedom Act. This bill approaches the issue of protecting patients and providers in a different way, by ensuring that no public body can restrict, deny, or create barriers to access any health care on a local level. Trans people can rest assured that in New Mexico, they can access the health care they need, no matter their zip code, so long as there is a qualified provider to give that care.

When I was in the process of changing my name, one of the hardest parts was the outdated and ridiculous requirement that I had to publish a notice of my name-change in a newspaper. While completely unnecessary and costly, this process also could be very dangerous for some trans people.

“New Mexico has been ‘added to a list of the top states for transgender people’ to live safely and freely”

This is why we supported coalition partners in working to eliminate this requirement for

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