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MORE ABOUT OUR WORK!



THE TORCH

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Diane used to be the person that all the other diesel technicians at ABF Freight in Albuquerque, NM went to for help. She had almost 35 years of experience working on diesel engines and knew the ins and outs of all the latest computer technology—knowledge the other technicians lacked. Every time they found themselves in a bind or at the limits of their own expertise, Diane was there to lend a hand.

But all that changed when Diane informed her supervisor in December 2015 that she was a transgender woman and would no longer conceal her identity at work. For a year, she had already

been living as a woman nearly full time, but hid her transition from her colleagues out of fear that they wouldn't understand.

"I don't know how many times it would be eight pm at night and time to go to work and I would just be sitting there crying because I had to take off my dress and take off my makeup and become the person I wasn't—that I hated," said Diane. "Having to switch between two people was hugely taxing."

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FIGHTING THE IMMIGRATION DETENTION MACHINE

By Micah McCoy

After security forces viciously beat him and threw him in jail for expressing opinions critical of the government, Raul Villegan* fled his native Cuba and made a harrowing journey through Central America and Mexico to seek asylum in the United States in early spring 2019.

"Everyone has a right to seek their dreams and goals," said Villagran. "I thought I could find this in the U.S."

What he found instead was another set of prison bars. Despite passing his credible fear interview, a standard assessment that is the first step to successfully obtaining asylum in the U.S., Immigration and Customs Enforcement officials detained him in Otero County Processing Center (OCPC) in a remote stretch of desert near Chapparral, NM.

New Mexico is home to several of these detention centers, including Torrance County Detention Facility (TCDF) in Estancia, NM, and Cibola County Detention Center (CCDC) in Milan, NM. OCPC is operated by for-profit prison corporation Management and Training Corporation (MTC), and both TCDC and CCDC are operated by for-profit prison



Otero County Processing Center in Chaparral, NM

corporation CoreCivic, formerly known as the Corrections Corporation of America. Immigration detention is big business for CoreCivic, which has obtained more than \$330 million worth of contracts from ICE since the beginning of the Trump Presidency, and in year 2018 reported \$1.8 billion in revenue.

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FIRED FOR BEING TRANS

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Diane was done trying to be someone she wasn’t. Doing so for 49 years nearly cost her her life and she was ready for her colleagues to meet the real her. The first step was letting management and Human Resources know what she would require to be able to transition safely at work. Her requests were simple: she would need a separate place to comfortably change and use the restroom away from the men; a women’s uniform; and for the company to allow the Transgender Resource Center (TGRC) to offer a free educational training to prevent harassment and discrimination in the workplace.

At first, they agreed to all three requests. They would convert the restroom downstairs into a woman’s restroom and changing area for Diane. They also agreed to the educational training and a new uniform. But it wasn’t long before the bathroom they designated as Diane’s was opened up to all staff and visitors to the shop, leaving her no personal space. Her colleagues—who never received the training from TGRC—drew a penis over the woman’s symbol on the door plaque and then took to putting foul-smelling items in the garbage and stealing her air fresheners to force her to endure the stench. As for a new uniform, Diane never received one.

“I hated going into work,” Diane said. “But I was determined to stick it out, always with that little voice saying, ‘It will get better.’ ‘Things will change.’”

The same people who once treated Diane with respect and deference, began to diminish and harass her. Oftentimes, they would move to the other side of the shop and refuse to even work near her. Other times, their disdain was more overt. She would walk into work and find her toolbox handle had been coated with grease or the lock had been glued shut. She’d walk out of work to find spit dripping down her windshield. Then there was the constant and deliberate misgendering she faced day in and day out.

On one occasion, her coworkers blasted a radio program that bashed transgender people for three hours, pretending not to notice the pain swelling inside the woman who they once called a friend. As messages of hate and intolerance filled the shop, Diane slipped in earbuds and continued to work, pushing away the hurt.

Rather than address the harassment, management instituted a new policy several weeks later banning the use of headphones during work hours. It wasn’t the first time they created a new policy to accommodate the prejudices of her colleagues. Weeks prior, after an employee complained that Diane was wearing a tank top on a hot day, which was a usual practice in the shop, management created a new policy requiring staff to wear uniform tops at all times.

“It just left me feeling worthless,” Diane said. “They can’t see the devastation that they are doing to you. As trans people, many of us have lived our whole lives wearing a mask, so when we walk out in public we’ll put a mask back on and not let anybody see how much they are hurting us. And then when we get home we break down.”

The constant harassment took its toll on Diane. Panic and dread often kept her awake at night. Then, depression would settle in and hold her in its grip. She couldn’t sleep, but she also couldn’t move from her bed.

On a number of occasions, her depression and anxiety were so severe her doctor advised her not to go to work. She would provide doctor’s notes, but management always seemed to find something wrong with them and then discipline her. They claimed she needed originals instead of copies, or that she needed to turn in her doctor notes over the weekend rather than on weekdays. From day to day the policies seemed to change according to the whims of management—part of a pattern of retaliation against her for bringing concerns of harassment and discrimination to their attention.

By the summer of 2017, what little hope she had left that her situation would improve was extinguished. Drowning in darkness and despair, Diane was forced to take medical leave in order to seek treatment for severe depression and Post Traumatic Stress Disorder.

While she was on leave, ABF Freight fired her.

Diane was fired from her job not because she wasn’t an exceptional technician, but because ABF Freight discriminated against her for being transgender.

She is not alone in the discrimination she faced. Thirty percent of respondents to the 2015 U.S. Transgender Survey reported being fired, denied a promotion, or experiencing mistreatment at their jobs because of their gender identity or expression in the past year. Economically marginalized, trans people are more than twice as likely as the U.S. population to be living in poverty, and transgender people of color are three times as likely as the the rest of the population to be living in poverty.

The Trump administration has spared no opportunity to expose trans people to even greater harms. For nearly two decades, federal appeals courts have ruled that anti-trans discrimination is a form of sex discrimination that violates federal law. The Equal Employment Opportunity Commission, charged with enforcing civil rights laws against workplace discrimination, has agreed, taking the position that sex discrimination includes discrimination on the basis of gender identity and sexual orientation.

The Trump administration has sought to change that, asking the Supreme Court in three landmark cases—two of which the national ACLU is arguing—to rule that it’s legal to discriminate against LGBTQ people. Such a ruling would be particularly devastating for LGBTQ people who work in one of the 26 states that lack laws prohibiting discrimination on the basis of gender identity and sexual orientation.

Fortunately, the New Mexico Human Rights Act explicitly protects LGBTQ people from employment discrimination, providing an avenue for New Mexicans to fight back. And that’s just what Diane did.

After she was terminated, Diane filed a complaint with the Human Rights Bureau against ABF

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FROM THE DESK OF EXECUTIVE DIRECTOR PETER SIMONSON

You will notice from the advisory on page six of this newsletter that the ACLU of New Mexico board of directors is contemplating a host of changes to the organization’s bylaws, and is inviting your input by late January. Now, I understand that bylaws aren’t usually the sort of thing that sets people’s hair on fire, but these changes are noteworthy. Among other things, they would codify the organization’s commitment to becoming a racially equitable and welcoming organization.

These changes are especially critical now, a time when demographic change, the growing wealth gap and a White House that overtly uses racism to galvanize support are fueling a resurgence of white supremacy in our nation. As the largest and most effective civil rights organization in the country, the ACLU has a special role to play in beating back the white nationalist aims of the Trump government.

But we can’t claim legitimacy in that work if we don’t reflect internally the vision of racial equity that we hold forth for the rest of society. As an organization, we can no longer content ourselves with the myth that diversity in our ranks is immaterial as long as the causes we’re fighting for are racially just. That outlook embodies the same paternalism and implicit bias that entrenches people of color, and especially African Americans, in the underclass, despite the formal legal accomplishments of the civil rights movement: the Civil Rights Act, the Voting Rights Act and more. The arc of the moral universe may ultimately bend toward justice, but it will be very long indeed if people of color have to rely on a white bourgeois class to set the pace and scope of change.



So, we must diversify. But racial diversity alone will not create the kind of organization that the board and staff of the ACLU of New Mexico envision. You can be invited to the party, but still not feel welcome if the food, music and drink are selected with someone else’s tastes in mind.

No, the ACLU of New Mexico must change at levels both cultural and structural to ensure that people of all identities are invited to lead and shape the organization—to “co-create” the ACLU. To belong. The new bylaws lay the foundation for that change to occur so that one day, as they propose, “all may feel at home, safe and respected within this organization.”

A handwritten signature in black ink, appearing to read "Peter M. Simonson".

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A graphic illustration featuring the hand of the Statue of Liberty holding its torch, emerging from an open white gift box. A red ribbon bow is tied around the box. The background is light blue with white snowflake patterns.

THIS HOLIDAY SEASON,
GIVE THE GIFT OF JUSTICE.

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WWW.ACLUNM.ORG

“

Before, I literally hated the person in the mirror and didn't understand why. Now when I look in the mirror, I see the person I was supposed to be the whole time and I love the person I am.

”



HEAR MORE FROM DIANE

Use your mobile device's QR code reader to watch a video of Diane talking about her experience with anti-trans discrimination in her workplace, or find the video at the ACLU-NM YouTube page at: www.youtube.com/aclunm.



FIRED FOR BEING TRANS

Continued from page 2

Freight, alleging discrimination on the basis of sex, gender identity, and disability (for her mental health diagnosis). In July, the bureau issued a determination of probable cause that ABF Freight had violated the New Mexico Human Rights Act, and found additional probable cause that ABF Freight retaliated against Diane for engaging in protected activities.

“They terminated me because I was trans,” Diane said. “And being transgender didn’t make a difference in my job performance. Honestly, I would have been fine if everyone would have just left me alone.”

Following the bureau’s findings, the ACLU of New Mexico along with cooperating attorney Mark Chaiken filed a lawsuit against ABF Freight for perpetuating a hostile and discriminatory work environment and ultimately firing Diane for being transgender.

“This type of discrimination is not only against the law in New Mexico but it is also against our values as New Mexicans,” said ACLU of New Mexico Legal Director Leon Howard. “Nobody should ever have to dread going into work every day out of fear they will be harassed or worry they

will be fired from their jobs simply for being who they are.”

Through the lawsuit, Diane hopes to send a message to companies in New Mexico and beyond that discrimination against LGBTQ people will not be tolerated.

“I want to see an example made of ABF Freight so other companies will think twice before doing this,” Diane said. “I feel that I’m not the only person they’ve done this to. They’ve probably done this over and over and gotten away with it. This time I wasn’t going to let them get away with it.”

While Diane continues her fight and advocacy work on behalf of the transgender community, she’s also busy living the life she waited decades to live.

“I have never regretted transitioning because if it wasn’t for transitioning I wouldn’t be alive,” Diane said. “Before, I literally hated the person in the mirror and didn’t understand why. Now when I look in the mirror, I see the person I was supposed to be the whole time and I love the person I am.”

The ACLU will keep fighting in New Mexico and beyond so that people like Diane don’t have to decide between two impossible choices—being oneself while enduring humiliating and degrading treatment or hiding in abject suffering to appease others. The cost of both is too high.

A FATHER’S NIGHTMARE

By Micah McCoy

It was a parent’s worst nightmare. On June 19th, Muhammad “Nadeem” Khan, 60, had buried his son and best friend Tehseen in the cemetery at Fairview Memorial Park in Albuquerque. A few days earlier, Tehseen, after many years of battling severe depression, finally succumbed to his illness, ending his own life at the age of 24.

Nadeem’s world was shattered. Tehseen was his only family in New Mexico, and now he was left alone, consumed by grief and grappling with the trauma of losing his son to suicide.

“Tehseen was my best friend and an incredible person,” said Nadeem. “He cared deeply about other people and always stood up for what he believed was right. Not a day goes by that I don’t miss him dearly.”

Nadeem, a Pakistani Muslim who immigrated to the United States in 1985 and moved to New Mexico in 2014 with his son, turned to his faith for solace in his time of mourning. In accordance with his family’s religious traditions, he began returning to Tehseen’s gravesite each day after the burial to recite traditional prayers from the Qur’an using videos on his smartphone for reference. It was on the fifth day of this 40 day ritual that Nadeem’s nightmare deepened.



ACLU-NM client Nadeem Khan at his son’s gravesite.

As he was in the midst of reciting his prayers, a young security guard from Mesa Detection Agency interrupted Nadeem and rudely informed him that the cemetery was closing and he would have to leave. Nadeem was perplexed; the sign in front of the cemetery advertised closing time at dusk and the summer sun was still high in the sky that evening.

“I explained to the guard that I was praying for my recently deceased son, and since dusk was still a while off, I asked for at least a few more minutes to finish my prayers,” recalls Nadeem.

Roberto Rosales/ABQ Journal

The guard became angry at this request and told Nadeem, “It closes when I say it closes, it’s not my job to wait on you.” He again ordered him to leave and threatened to lock him in overnight, inflecting his demands in a mocking imitation of Nadeem’s Pakistani accent.

Upset, but wishing to avoid further trouble or disrespect to his son’s gravesite, Nadeem left his prayers unfinished and exited the cemetery.

Determined to complete the full 40 days of ritual prayer at his son’s resting place, Nadeem contacted the administration of Fairview Memorial Park the next morning, who confirmed that the cemetery is open until 8:30 in the evening. He returned to the gravesite even earlier than the previous evening, hoping to avoid further trouble.

The guard rolled up only ten minutes into Nadeem’s prayers, again demanding that he leave. This time Nadeem refused, informing him that he had spoken with cemetery administration and would not be expelled before closing again. When Nadeem requested the guard’s name, the guard— later identified as 20-year-old Noah Tucker—became aggressive and threatening. Only inches from Nadeem’s face, he screamed obscenities at him, telling him to “go back to wherever the fuck you came from” and, pointing to the Quranic prayers, yelling “we don’t do that shit here!”

Ignoring Nadeem’s pleas to have a heart, Tucker spat tobacco juice on Nadeem’s shoes and car and proceeded to stomp his feet on the freshly dug grave of his son. Having desecrated the burial site and humiliated a grieving father, Tucker got into his security vehicle and drove off.

“I was in shock,” said Nadeem. “I felt afraid and very sad. I was already mourning my son. It was like a nightmare, and I was hoping I would just wake up from it.”

But the nightmare wasn’t over. After Nadeem finished his prayers for his son and prepared to leave the cemetery, he found the exit blocked by Tucker’s security vehicle. He opened the door to take stock of the situation, when suddenly Tucker rushed him, slamming his door shut, narrowly missing Nadeem’s leg as he quickly pulled it back into the car. Tucker shoved his head inside the car window and began barking in Nadeem’s face, and threatened to “hurt him so bad he’d remember it for the rest of his life.”

“At that point, I was afraid for my life,” said Nadeem. “It didn’t seem like it would ever end.”

Tucker kept Nadeem trapped in his car inside the cemetery for approximately forty minutes, continuously berating him with increasingly degrading threats and racist abuse. Nadeem was only able to escape when another security guard arrived on the scene and ordered Tucker to unblock the exit. Shaken and humiliated, Nadeem left and filed a police report and informed the cemetery administration of Tucker’s behavior.

Word of the incident spread quickly, and a few days later a columnist from the Albuquerque Journal interviewed Nadeem about his experiences at the cemetery, where he mentioned his plans to file a complaint with the ACLU.

“We didn’t wait for him to call, we immediately reached out to Mr. Khan,” said ACLU of New Mexico Senior Staff Attorney María Martínez Sánchez. “It should go without saying that people have a right to mourn the loss of their loved ones in public cemeteries without fear that they will be endangered because of the color of their skin, their religion, or the language in which they pray. We refuse to tolerate this kind of unjust and inhumane treatment of people in our community.”

On September 18, the ACLU of New Mexico, along with cooperating attorneys Maureen Sanders and Duff Westbrook of Sanders & Westbrook, filed a complaint on behalf of Mr. Khan with the New Mexico Human Rights Bureau, alleging illegal discrimination based on race, religion, and national origin. In early December, we followed the complaint with a lawsuit against Mesa Detection Agency and Tucker.



PHOTO: Muhammad “Nadeem” Khan with son Tehseen Khan.

Tragically, these kinds of horrific incidents have become more common in recent years. In November, the FBI reported that hate crime violence had hit a 16-year high, with a sharp increase during the Trump administration. It isn’t difficult to draw the conclusion that the current administration, whose policies and pronouncements are saturated with hateful and bigoted rhetoric against immigrants, Muslims, and people of color, is a major driver of the spike in violence against people like Nadeem Khan.

“Maybe it wouldn’t have been so bad if I hadn’t just lost my son,” said Nadeem. “But going through that experience with racism, with someone humiliating me by spitting on me and my car, made me feel like nothing. I want this to stop. That’s the only reason I came forward to let people know my story, so they can speak up if something happened to them.”

Despite the alarming rise in harassment and assaults on immigrants, people of color, and religious minorities during the Trump administration, the vast majority of New Mexicans reject the hate and bigotry propagated by the president and his followers. The real values of our community were in full display in the outpouring of support Nadeem received after the Albuquerque Journal reported the incident. Saddened and outraged, dozens of strangers have reached out over social media offering to accompany Nadeem to the cemetery to ensure that he is able to pray over his son’s grave in peace.

“I am overwhelmed at the support and love that you people are providing me at this difficult time in my life,” Nadeem told the Journal. “I found out that there are more good people than evil, that there are more people who love than hate. I have not given up on this world.”



HEAR MORE FROM NADEEM

Use you mobile device’s QR code reader to watch a video of Nadeem talking about the harassment and intimidation he faced at his son’s gravesite, or find the video at the ACLU-NM YouTube page at: www.youtube.com/aclunm.



PROPOSED CHANGES TO ACLU OF NEW MEXICO BYLAWS

At its November 23rd, 2019 meeting, the ACLU of New Mexico Board of Directors voted to propose an extensive series of changes to the ACLU of New Mexico bylaws to the ACLU membership in New Mexico. In brief, they entail the following:

- Reducing the size of the board from 21 to 18 members;
- Instituting term-limits;
- Expanding the board committee structure;
- Clarifying the board nominating process; and
- Committing the organization to becoming equitable and inclusive, including changes to the organization’s purpose statement.

ACLU of New Mexico bylaws require the Board of Directors to announce bylaws changes to the ACLU membership to receive feedback before voting on the final amendments.

If you wish to review the changes and send feedback to the Board, please go to the following link and submit your comments no later than January 11, 2020:

www.aclu-nm.org/bylaws

THE IMMIGRATION DETENTION MACHINE

Continued from page 1

“These for-profit detention facilities are emblematic of how broken our system is,” said ACLU of New Mexico Senior Staff Attorney María Martínez Sánchez. “The Trump administration has implemented deliberately cruel policies that result in mass detention of asylum seekers. These detentions are often indefinite, keeping people who are seeking refuge in this country and who pose no risk to the public behind bars for months or years. Meanwhile, prison corporations are getting rich off of those suffering behind their walls.”

Given the lucrative nature of these government contracts, companies like CoreCivic are eager to see mass detention of immigrants and asylum seekers continue. CoreCivic alone has spent tens of millions of dollars lobbying congress, donated hundreds of thousands of dollars directly to political candidates, and in 2016 made a \$250,000 donation to President Trump’s inauguration committee. It’s a classic case of one hand washing the other.

Despite all this handwashing, CoreCivic and MTC’s hands are far from clean. Motivated by maximizing profits rather than health and safety, CoreCivic and MTC facilities are notorious for abuse, medical neglect, physical and sexual assault, and dangerous levels of understaffing and overcrowding.

As Villegran and his fellow detainees know too well, OCPC is no exception. For many detainees like Villegran, who were tortured inside Cuban prisons, their prolonged detention meant elevated levels of mental distress, anxiety, and post-traumatic stress disorder. Two of the Cuban detainees had already attempted suicide while in detention. After more than six months in detention with no clear end in sight, Villagran and a group of other detained Cubans organized protests against the poor conditions, unjust asylum process, and racist and abusive treatment by MTC staff. In early October, Villegran and ten other Cuban detainees linked arms and sat silently in the recreation yard in protest against the inhumane treatment they faced in OCPC.

OCPC retaliated against the peaceful protestors by sentencing the group to 29 days of solitary confinement, a practice that the United Nations has called torture. Shortly after the protest, Villegran and another Cuban, who OCPC suspected as lead instigators within the group, were transferred across the state to the Torrance County Detention Facility.

“People in immigration detention inside the United States are still protected by the First Amendment,” said Sánchez. “Retaliating against immigration detainees for conducting a peaceful protest is not just unconstitutional, it’s deeply inhumane. Our country is literally doing the same thing to these people that ruthless dictators did: jailing and torturing them for speaking out.”

After learning of OCPC’s retaliation against the Cuban detainees from on-the-ground advocates in southern New Mexico, the ACLU of New Mexico dispatched a legal team to the facilities to interview the protesters held in solitary confinement and determine how we might assist them in their plight. The ACLU’s team learned that the Cuban protesters weren’t the only victims of OCPC retaliation. Also held in solitary was Ana Cortez,* a transgender woman who was detained among the general male population in OCPC.

Cortez had been sentenced to a 28 day stretch in solitary confinement because she got diarrhea. In early November, she suddenly began suffering from gastrointestinal issues and went to a guard to ask to use the bathroom. The guard denied her access, telling Cortez the bathroom was currently being cleaned. In desperation, Cortez entered the bathroom anyway and was followed by another guard, who refused to provide her privacy.

Mortified by the thought of having diarrhea in front of a guard, Cortez returned to her cell in great pain and discomfort. Moments later the second guard returned with approximately ten

other guards, and pinned her arms behind her back, causing excruciating pain. Cortez, who was raped as a child and suffered permanent injury and disfigurement to one of her arms as a result, begged the guards to stop forcing her disabled arm behind her back. Ignoring her pleas, the guards attempted to handcuff her and she jerked her arm away reflexively.

They charged her with “insolence towards a staff member” and “assaulting a staff member or law enforcement officer” and threw her in solitary confinement. In parting, one of the officers banged on the door of her tiny, stark cell in an intimidating manner and hurled homophobic slurs at her, calling her a “pinche gay.”

Senior Staff Attorney María Martínez Sánchez wrote a letter to the OCPC warden, threatening legal action against the facility on grounds of excessive force, violations of constitutional due process rights, and various other state and federal violations if the facility did not immediately release Cortez from solitary confinement. In addition to fighting for Cortez’s release from isolation, the ACLU of New Mexico urged ICE to release Cortez from detention altogether, or failing that, at least transfer her to the Cibola County facility where there is a special detention unit specifically for transgender detainees where she is less likely to be the target of transphobic and homophobic harassment.

Shortly after receiving the ACLU’s letter, OCPC released Cortez and transferred her to the transgender unit at the Cibola facility. They also released the remaining Cuban protesters from solitary confinement and returned them to the general population.

“Our country is literally doing the same thing to these people that ruthless dictators did: jailing and torturing them for speaking out.”

From the outset, the ACLU has been at the tip of the spear in the fight against the Trump’s administration’s cruel and inhumane asylum policies. Earlier this year, the national ACLU joined with the Center for Constitutional Rights, and the Southern Poverty Law Center to file a lawsuit against Trump’s “remain in Mexico” policy that forces asylum seekers to wait in squalid camps on the Mexican side of the border where they are easy prey for cartel kidnappers and corrupt officials as they wait weeks or months for an asylum hearing in the United States. Meanwhile, affiliates like the ACLU of New Mexico remain hard at work fighting for the release and fair treatment of asylum seekers languishing in local for-profit detention facilities. At the time of this article’s publication, the ACLU of New Mexico legal team is preparing for a

possible lawsuit against MTC and OCPC for free speech retaliation against the Cuban protesters in their custody.

“These are truly dark times for a country that claims to be the land of the free,” said Sánchez. “The inhumanity that we have shown to families fleeing violence and persecution will forever be a stain on our nation’s soul. That’s what makes the ACLU’s work so critical. If we don’t stand up against the politics of cruelty and white nationalism and the corporate greed of privatized detention, who will?”

*Pseudonyms have been used to protect identities

TAKING DOWN A CULTURE OF SEXUAL ABUSE IN NM PRISONS

By Katie Hooppner

***Warning: This article contains depictions of sexual violence that may be difficult for some people to read.**

Stories of Survivors

Lisa Jaramillo was excited to take up a job in maintenance at the Western New Mexico Correctional Facility in January of 2017. At 85 cents per hour, her earnings were meager—consistent with the United States’ longstanding practice of exploiting incarcerated people for cheap labor. Although it took her nearly half a day of work just to be able to afford a box of tampons, Lisa says her job offered her an escape from the crushing monotony of life in prison, as well as a sense of meaning and stability.

“I was embarrassed to be in there already and to have my family supporting me or asking them for money...it’s hard for us to live in there with nothing,” Lisa said. “And so, I took pride in it. I was learning a lot of stuff.”

Whatever joy her job provided her quickly vanished.

Within months, her supervisor, Eluid Stan Arguello, who she had come to trust, began to use his position of power to take advantage of her by grabbing her buttocks and trying to hold her hand on the job. At the end of April, while they were working alone out in the facility sheds preparing for an upcoming audit, Lisa says Arguello took his abuse to the next level. While she was descending from a ladder, he pulled down her pants and forced himself on her violently.

After the attack, Lisa was terrified to return to work. Though she wanted to report Arguello to ensure he wouldn’t abuse her again, she feared other officers, many of who knew Arguello had abused her, would protect him over her, or worse, retaliate against her, as was common in the prison. Instead she requested a transfer to the warehouse, where she previously worked, but was told Arguello “wouldn’t let her go.”

Not only did Arguello abuse Lisa again, but a second officer, Michael Martinez, began to force himself on her, demanding to “have his turn.”



ACLU-NM client Lisa Jaramillo

Lisa was trapped and didn’t trust anyone to help her.

In late June, after another employee observed Arguello dropping off a bag of food to Lisa’s pod and reported it, Lisa found the courage to disclose Arguello’s abuse to officers from the Security Threat Intelligence Unit. Rather than taking immediate action to protect her, they revoked her phone privileges, locked her in solitary confinement for over a week, and took away a year of good time, extending her time behind bars. As a result of the retaliation, she did not tell them at that time that Martinez had also sexually abused her.

“I started blaming myself for a long time,” Lisa said. “I’d ask, ‘What am I doing wrong?’ And then finally it turned into, ‘No, I am angry at them.’”

Sadly, Lisa’s story is not unique.

That same year, over in Springer Correctional Facility, Rebecca Martinez was also sexually assaulted by her job supervisor. She, like Lisa, says she used to enjoy her time at work and away from her pod. But in February 2017, when she was switched to the morning shift in the kitchen, she soon began to dread going into work. Her new supervisor, Christopher James Padilla, started making lewd sexual comments to her regularly. Within weeks, he trapped her in the walk-in refrigerator and

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BOARD ELECTION NOTICE

If you desire to run for one of the seven open positions on the ACLU-NM Board of Directors in 2020, please send to the ACLU-NM Nominating Committee a 250-word statement expressing your interest in and qualifications for serving on the Board. With the Board’s approval, the Committee will send a slate of seven recommended candidates to the membership for a vote in March.

Candidates who are not selected for the slate are eligible to place themselves on the ballot by obtaining a petition signed by 1% of the ACLU-NM membership (currently 11,707 members total), supporting their nomination, along with a 250-word statement of interest. The ACLU-NM office must receive statements of interest by January 31, 2020. Nominees’ names will be placed on the election ballot and their statements will be published on the ACLU-NM website.*

Please mail statements to:

Nominating Committee
c/o ACLU of New Mexico,
PO Box 566, Albuquerque,
NM 87103

Statements may also be faxed to: (505) 266-5916

Information on voting will be sent to members at least two weeks prior to the election. The election will be held on March 31, 2020.

**At its January 25, 2020 meeting, the Board of Directors will vote on proposed bylaws amendments that may reduce the number of open positions from seven to six and reduce the percentage of ACLU members required for the petition process from 1% to .5%.*

THE TORCH

The Torch is a publication sent to members and supporters of the American Civil Liberties Union of New Mexico. Please send any comments, questions, or submissions to Micah McCoy, Editor and Communications Director at: mmccoy@aclu-nm.org

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SEXUAL ABUSE IN NM PRISONS

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demanded she show him her breasts or he would take away her good time credits.

“You feel like you’re stuck in a corner and you can’t get out,” Rebecca said. “Do you just sit there and deal with it so you can support yourself and stay away from all the other negative things that are going on [in the prison] or do you say something? And then what happens?”

In March, Padilla escalated his abuse. When Rebecca went to retrieve a tool from Padilla’s office, he rubbed his genitals on her. In the days afterward, he threatened to get her in trouble if she reported him and told her no one would believe her.

“I felt really bad about it,” Rebecca said. “I felt really insecure at first, like it was my fault. And I couldn’t really do anything about it. I started getting really depressed.”

It wasn’t until the end of March, after Rebecca was discharged from the kitchen for an illness, that she finally felt safe to report Padilla. Though her complaint should have been kept confidential, in under a day news spread that Rebecca reported Padilla, leading to backlash and threats. Rebecca’s mental health quickly began to deteriorate, prompting officials to transfer her to Western New Mexico Correctional Facility.

Days earlier, Jane Doe,* who was also incarcerated at Western New Mexico facility, had just discovered she was pregnant. The person responsible was Officer Benny Chee—someone she once considered a friend and confidant.

Like many incarcerated women, Jane came to prison with a tragic personal history of trauma and abuse. Jane said Chee gained her trust by bringing her into the control room where they would talk at length about her pain and he would offer advice. But by mid-February, Chee demanded more than conversation from Jane. Over the course of several weeks he sexually assaulted and raped her four times.

Jane was desperate for the abuse to stop, but like Lisa and Rebecca, she did not think anyone would believe her, or worse, that she would be blamed and punished.

Her fears were well-founded. After Chee impregnated her, and after she suffered a painful miscarriage eight weeks into her pregnancy, Jane said Chee’s former coworkers and supervisors harassed, verbally abused, and blamed her for what he had done.

While former officers Chee, Martinez, and Arguello were charged with felony crimes, Padilla remained a correctional officer at Springer Correctional Center until November 2019, even though several other women came forward to report that he abused them too. As of this writing, he has not been criminally charged.

Power and Pervasive Abuse

Corrections officers wield a tremendous amount of power over incarcerated people, controlling where they go, who they communicate with, and whether they may be employed. They also have the power

to revoke their phone privileges, isolate them in solitary confinement, and extend their sentences by taking away their good time.

Every year, hundreds of correctional officers across the United States use their positions of power to perpetrate abuse. For this very reason, Congress enacted the Prison Rape Elimination Act (PREA) in 2003. In recognition of the extreme power differentials between corrections officers and incarcerated people, under PREA sexual activity between a staff member and an incarcerated individual is never consensual and is always against the law. It is also a felony offense under New Mexico law.

In 2012, The United States Department of Justice issued a set of standards requiring detention facilities to provide educational training on sexual assault and rape, offer multiple avenues for incarcerated people to report abuse, and to investigate all allegations of misconduct, yet sexual assault remains rampant. A 2018 DOJ report revealed 2,205 substantiated instances of staff-on-inmate sexual victimization from 2012-2015 across all U.S. detention facilities. The actual number of instances of abuse may be much higher, as over 36,000 allegations were made and many instances likely go unreported for fear of retaliation.

Holding NMCD Facilities Accountable

When correctional facilities ignore, dismiss, and fail to take seriously allegations of sexual assault and rape, they embolden those correctional officers who have abused their power to continue doing so and turn facilities into hotbeds of sexual abuse.

That’s why this year the ACLU of New Mexico filed a series of lawsuits against the New Mexico Corrections Department, Western New Mexico Corrections Facility, and various individual corrections officials for fostering an environment rife with sexual abuse. Staff attorney and Equal Justice Works Fellow Lalita Moskowitz led the charge, beginning with a lawsuit in April on behalf of Lisa Jaramillo, followed by two more lawsuits over the next six months on behalf of Rebecca and Jane.

“While incarcerated, individuals give up a great many comforts and privileges, but they never relinquish their right to bodily autonomy or their right to be free from cruel and unusual punishment,” said Moskowitz. “We’re inspired by the bravery that Lisa, Rebecca, and Jane have all shown in coming forward and we’re determined to do everything in our power to eradicate the culture of sexual violence that has permeated New Mexico correctional facilities.”

Lisa and Jane have both recently been released from prison and are attempting to rebuild their lives with their families. Rebecca will be released in the next year. All three women hope that through their lawsuits they can shed light on the extent of sexual abuse behind bars and prevent it from happening to other women.

“I really want to see change happen,” said Rebecca. “I feel like just because we’re inmates and we’re in prison nobody ever believes us. Just because we’re in prison doesn’t mean that we’re not human and we can just be treated any type of way.”

**A pseudonym has been used to protect Jane’s identity*