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THE TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

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A NEW DAY.

BY PETER SIMONSON,
ACLU OF NEW MEXICO
EXECUTIVE DIRECTOR

It's the end of an era; four of the darkest years in recent memory are drawing to a close. In a matter of weeks, President Donald Trump will leave the White House (kicking and screaming and tweeting), and former Vice President Joe Biden will replace him. While the ACLU is not a partisan organization and we do not endorse any candidates for office, it would be disingenuous to pretend that this was not the outcome we were hoping for. Like many of you, I feel a mix of emotions at this moment. I share in the elation that overflowed into the streets when Trump's loss became official. I feel relief that our country will not suffer another four years of Trump's racist, xenophobic, misogynistic, and hateful leadership. And I feel great pride in the work that the ACLU of New Mexico—

and the ACLU at large across this nation—has done to protect the basic rights, dignity, and humanity of all people during these past four years.

Four years ago, in the wake of Trump's surprise election I sat down to write a letter to the ACLU of New Mexico membership in this publication and made you this promise:

"We will join the front lines to defend immigrants, Muslims, and people of color from the racist policies that are sure to storm our communities in the coming years."

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A BAD COP'S BEST FRIEND

Qualified immunity and the quest to rebalance the scales of justice

By Micah McCoy

It was 9:30 at night when Joseph Lundstrom's dog started barking, and he heard the sound of someone rapping on his front door. Not expecting any visitors at such a late hour, Lundstrom cautiously opened his front door when he was immediately blinded by a light shining directly into his eyes, and heard a woman identify herself as an Albuquerque Police officer.

Lundstrom recalls, "When the lady showed up at my front door, there's no cop car out front. She's hiding behind the bushes, shining the light on my front door."

Alarmed by the unexpected appearance of someone claiming to be law enforcement, Lundstrom asked the officer to produce identification. She refused.

"Everything was wrong," said Lundstrom. "That's what set it all off. I wanted an ID. Then she pulled her gun."

Unbeknownst to Lundstrom, a neighbor had called 911 earlier in the evening after hearing



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A NEW DAY

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We will stand with women who fight for control of their own bodies.

We will challenge any attempt to restrict voting rights and undermine our democracy.

We will continue to fight for a criminal justice system that is fair, impartial and offers a true chance of redemption.

We will redouble our efforts in Congress, the legislature, the courts, the media and in our communities.

We will fight to protect all of the hard won gains we have achieved. We are not turning back.

This is our America, not just Trump's. And we will fight for it every step of the way."

We knew then how hard the fight to come would be. But we never could have imagined the groundswell of support we would have from members like you to help us keep our promise. In the months between Trump's election and his inauguration, our membership more than quadrupled nationwide and tripled here in New Mexico. Moments after Trump announced his Muslim ban in January 2017, ACLU attorneys began meeting with Muslim travellers stranded in airports across the country and thousands of Americans marched on airports in solidarity and protest. As you marched in the streets, we fought against the Trump administra-



PHOTO: ACLU-NM staff and volunteers lobbying at the state legislature for criminal legal system reform in 2019

tion's bigotry and xenophobia here in New Mexico by working in the courts to win the release of migrants and refugees detained in facilities throughout the state. We went to bat for immigrant communities, pressuring state leadership to prevent local resources from being employed in Trump's mass deportation schemes, joined a nationwide lawsuit to protect Iraqi immigrants from unjust deportation, and sued Immigration and Customs Enforcement (ICE) to prevent predatory immigration arrests on courthouse grounds.

The day after Trump took office, millions of women took to the streets across the nation, including here in New Mexico, to demand reproductive freedom and other basic human rights routinely denied to

women here in the United States. In the ensuing four years, the ACLU has been instrumental in beating back dozens of attempts to shutter abortion clinics and restrict access to basic women's healthcare. In successive legislative sessions here in New Mexico, we helped pass a law expanding access to contraception by requiring insurance companies to cover a full range of options for men and women, and helped pass the Pregnant Worker Accommodation Act, which amends the New Mexico Human Rights Act to provide increased protections and reasonable accommodations for pregnant and parenting people in the workplace. During Trump's tenure, we also sued Walgreens after they failed to prevent their pharmacists from denying women prescriptions critical to their reproductive health.

Over the past four years, we have doubled down on our commitment to racial justice and reform of the criminal legal system here in New Mexico. We've filed record numbers of racial discrimination lawsuits, hired an attorney dedicated to indigent justice issues, built a community centered movement to fight mass incarceration, and helped pass an unprecedented number of criminal justice reform bills, including a comprehensive criminal justice reform bill focusing on accountability and treatment to both prevent crime and successfully reintegrate people back into society; and bills that banned the use of solitary confinement on vulnerable populations, allowed for criminal record expungement, decriminalized marijuana, removed barriers to employment for the formerly incarcerated, outlawed warrantless digital searches by law enforcement, and required universal adoption of body worn cameras by state and local law enforcement agencies.

I think we owe ourselves a moment to appreciate just how much we've accomplished together, even in the face of one of the most trying periods of the modern era. Our ferocious defense against Trump's bigoted agenda and the great strides forward we've made here in New Mexico would have never been possible without the energy, resolve, and support of people like you.

This is, however, also a moment for sober contemplation of what is to come. Trump may be on his way out, but it is becoming increasingly clear that his divisive and autocratic brand of populism will be with us for the foreseeable future. This presidential election was not the repudiation of Trumpism that many of us were hoping for, and it

seems likely that it is only a matter of time before a new leader, perhaps one more competent and calculating, assumes the Trumpist mantle and taps into the deep pool of rage, cynicism, and resentment that fueled Trump's rise. Make no mistake, this fight is far from over.

Although Biden will no doubt be a better president than Trump in every conceivable way, we can't count on him to be our savior. Exhausted as we are from fighting tooth and nail to protect our rights, our democracy, and our fellow Americans from the Trump administration's relentless assaults—now is not the time to hang up our hats and put up our feet. A Biden presidency will only be as good as we

push it to be. Remember: during the Obama years, we had no shortage of fights on our hands. Under his administration our battles included equality for LGBTQ+ people, historic cases protecting abortion access, police violence against Black people, massive expansions of the surveillance state, extrajudicial killings of American citizens, brutal suppression of Native water protectors at Standing Rock, mass deportations, and family detention of migrants and refugees.

ger to society, and will continue to push at a policy level for more community-based alternatives to incarceration that are more effective, cost-efficient, and humane.

As a border affiliate, immigration and border rights will continue to be a top priority for the ACLU of New Mexico. Regardless of who holds the presidency, we are still home to several federal immigration detention facilities run by for-profit

prison corporations notorious for abuse and medical neglect. Coronavirus continues to spread like wildfire within these facilities, and detainees face threats of retaliation if they protest the conditions of their confinement. Migrants, many of whom are fleeing torture or threats of death in their home countries, remain detained indefinitely—sometimes for months or years at a time—without access to legal help or fair hearings. Although we do not expect to see the kinds of massive immigration sweeps, family detentions, or deliberate cruelties of the Trump administration moving forward, history has shown us that injustice and abuse in the immigration and border

enforcement systems will continue absent major structural and policy reforms. We will continue to fight for the rights, dignity, and freedom of people trapped in this inherently inhumane system for as long as we must.

If there has been one benefit to four years of Trumpist rule, it's that it has made the injustice and inequality that plagues our nation impossible to ignore. For many of us who occupy privileged and sheltered positions in this country, the Trump presidency stripped away the polite fictions and pretty veneers that papered over deep and abiding systems of injustice. After Charlottesville, we cannot pretend that White supremacy is only part of our history and not our present. After George Floyd, we cannot ignore the systemic racism and brutality endemic in our criminal legal system. We cannot unhear the cries of children as ICE agents rip them from the arms of their parents.

The choice we now face is whether we go back to ignoring our problems, and attempt to return to the relative comfort of a pre-Trump status quo. Do we rebuild our walled gardens of polite fiction and put a fresh coat of paint on structural inequalities? Or will we use the momentum, solidarity, and resolve we have built over the past four years to tear down systems of oppression and rebuild our nation on true foundations of liberty, justice, and equality?

I know what path we at the ACLU of New Mexico will choose.




PHOTO: ACLU-NM staff rallying for immigrant rights in 2019

We will hold a Biden administration accountable just like we have held accountable every other presidential administration going back 100 years.

We will certainly have our work cut out for us here in New Mexico moving forward. Trump's most enduring legacy is likely to be the packing of federal courts with right wing ideologues, including the U.S. Supreme Court which now has a 6-3 conservative supermajority hostile to abortion rights. We face the likelihood moving forward that the protections afforded to us by *Roe v. Wade* for the last century will be steadily chipped away. This creates an urgent situation here in New Mexico. Although our state overwhelmingly supports a woman's ability to make their own reproductive health decisions, an old law from the 1960s criminalizing doctors who provide abortions is still on the books, though currently unenforceable. With *Roe* in such a precarious place, it becomes all the more urgent to get rid of this outdated and discriminatory law. In the upcoming legislative session, the ACLU of New Mexico will work tirelessly with its allies in the reproductive justice and health communities to strike this antiquated law from our books and ensure continued access to abortion in our state no matter what.

Although we have made impressive strides towards reforming our state's criminal legal system, more work lies ahead of us than behind us. The coronavirus pandemic has shined a spotlight on how broken and inhumane our corrections system is, with people confined in unsafe and unsanitary conditions, most of whom are there because we have invested all our resources in criminalizing poverty, addiction, and mental illness rather than addressing the underlying societal causes of crime. We've filed class action litigation against the state to slow the spread of COVID in our communities by securing the release of people who pose no dan-

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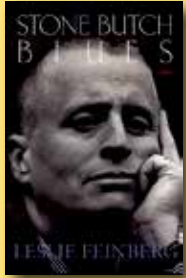
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STAFF PICKS !

The stuff we're reading, watching, and listening to that makes us better advocates and people.



STONE BUTCH BLUES by Leslie Feinberg

“Stone Butch Blues is about making it when it’s hard, about being proud of who you are regardless of how you get treated because of that, and about standing up for your loved ones, and what’s just in the face of a callous society. It’s also a memoir of nonbinary people before that concept existed as such, and was therefore a special treat for me. In fact, my use of ze/hir pronouns is partially an homage to the author, Leslie Feinberg, who pioneered neopronouns like ze/hir.”

- M WYNNE, University of Chicago
Public Interest Legal Fellow



THE STRICT SCRUTINY PODCAST

“Strict Scrutiny is a podcast about the United States Supreme Court that is hosted by three women law professors. Strict Scrutiny is super smart but not stuffy, extremely informative but also irreverent and funny! Highly recommended for those who want to keep up with the Court without being put to sleep in the process.”

- LALITA MOSKOWITZ, Staff Attorney

A BAD COP’S BEST FRIEND

Continued from page 1

what appeared to be a possible case of child abuse in progress. The neighbor mistakenly gave Lundstrom’s address to the dispatcher as the location of the incident, setting the stage for the ensuing nightmare for Joseph Lundstrom and his girlfriend Jane Hibner.

The responding officer, Deborah Romero, demanded entry to Lundstrom’s home at gunpoint to investigate a report of child abuse. Unsure whether Officer Romero was actually a police officer, Lundstrom refused to allow her into his home and informed Romero that he did not have children. As Lundstrom turned to walk away to call 911 himself, Hibner opened the door and walked onto the front porch to talk to the officer herself, closing the door behind her. Officer Romero immediately proceeded to place Hibner in handcuffs and called for backup, claiming that Lundstrom had barricaded himself in the house.



PHOTO: Joseph Lundstrom and Jane Hibner

When backup officers arrived, despite receiving new information from the 911 dispatcher that the original caller may have provided the wrong address, they proceeded to detain Lundstrom, forcing him to the ground, wrenching his shoulder back, and pinning him down with a knee or elbow on the back of his neck. As Lundstrom was handcuffed and placed in the back of a police car, the officers proceeded to ransack his house, searching in drawers and other places far beyond the scope of a search intended to ascertain the safety of children that might be possibly inside. The interior of his house was destroyed.

After suffering the trauma of wrongful arrest, excessive force, and the ransacking of their home by Albuquerque police officers, Lundstrom and Hibner filed a lawsuit in the courts seeking justice for their ordeal. The judge threw out their complaint, citing qualified immunity.

Disgusted at the callous lack of justice from the courts, Lundstrom quit his job of 25 years at Sandia National Laboratory, sold his house, and moved away from Albuquerque.

“I lost faith,” said Lundstrom. “I think it was the first time when the judge sat down and said, ‘Ah, they’re police officers, they’re allowed to make mistakes.’”

The ultimate Catch-22

So how did such a callous and dangerous instance of bad policing result in zero consequences for the officers involved? Two magic words: qualified immunity. Qualified immunity is a legal concept invented out of whole cloth by the U.S. Supreme Court beginning in the late 1960s to protect po-

lice officers from ‘frivolous lawsuits’ and financial liability when they were acting in good faith under circumstances where the law might not be completely clear. At first blush, that might sound entirely reasonable. Who would want to punish someone who was doing their best in a tough situation?

The problem is that qualified immunity has made it practically impossible to hold law enforcement and other public officials accountable when they violate people’s constitutional rights. The framers of the U.S. Constitution anticipated that all government authority is bound to be abused, so they built in mechanisms to protect individuals. In Section 1983 of the U.S. Constitution, they laid out that individuals have the right to sue the state and agents of the state for violations of their civil rights. This is crucial, because without this means of redress, the Bill of Rights is just an unenforceable piece of paper.

One of the key provisions of qualified immunity is that it shields law enforcement from civil suits unless a court determines an officer has violated “clearly established law.” Again, the language on its face sounds reasonable, but in application qualified immunity is one of the leading drivers of

injustice in the U.S. legal system. The standard of “clearly established law” has been interpreted by the courts to mean that an officer can’t be held liable for violating an individual’s rights unless a previous case exists with almost the exact same set of facts in which the court has ruled a police officer violated an individual’s civil rights. Here’s some examples of what that has looked like in the real world:

- In 2014, a homeless man named Alexander Baxter was chased by police officers and a police dog in Nashville, TN after he was spotted in the vicinity of a reported robbery. When Mr. Baxter sat down and raised his hands to surrender, the officer released the dog, who mauled Baxter so severely he had to be hospitalized. When Baxter filed a lawsuit, the court threw it out citing qualified immunity because in the closest prior case where wrongdoing had been determined a man had been mauled by a police dog while lying down—not sitting with his hands up.
- Also in 2014, a Coffee County, Georgia Sheriff’s Deputy Michael Vickers was attempting to execute a warrant for a criminal suspect when the ensuing pursuit spilled over into a nearby family’s yard. When the family dog challenged the deputy’s intrusion, Vickers opened fire on the family pet and accidentally shot a ten-year-old child in the leg, one of three children in the yard with the dog. When the family sued, the judge granted qualified immunity to the officer because no earlier case held that it was unconstitutional for a police officer to open fire into a group of children.
- In 2016, a Texas prison guard sprayed an inmate named Prince McCoy in the face with a can of pepper spray for no reason. The guard’s

use of force was determined by the prison to be unreasonable, and he was placed on three months probation. McCoy sued for damages, but the Fifth Circuit Court of Appeals determined that the prison guard had qualified immunity because similar cited cases had involved guards who had hit or tased inmates for no reason—not pepper sprayed them for no reason.

These cases are glaring examples of how qualified immunity has perverted justice to the point of absurdity. Extreme hair-splitting allows any number of heinous abuses to go unanswered just because the specific details of abuse do not conform to specific details in instances of past abuse. In a further Kafkaesque twist, when cases are thrown out because their novel circumstances permit qualified immunity, it renders it nearly impossible to create precedents that would prevent the use of qualified immunity in similar cases moving forward. It's the ultimate Catch-22.

Doctors, lawyers, barbers, and construction workers are all expected to follow the law and can be sued for serious misconduct, but qualified immunity gives police and certain other public officials what amounts to a “get out of court free” card. Cloaked in qualified immunity, law enforcement officers everywhere are emboldened to use excessive force, knowing full well that they are highly unlikely to face any consequences. This of course has an outsized impact on people of color, who experience excessive use of force at far higher rates than White people, and further entrenches a culture of racist violence in police departments across the nation.

The way forward

“Qualified immunity as it exists today cannot stand if we are to live in a just society,” said Barron Jones, Senior Police Strategist for the ACLU of New Mexico. “There is a crisis of accountability throughout New Mexico’s law enforcement agencies, corrections system, and other public officials who are shielded by qualified immunity. We must

do away with this incredibly destructive doctrine if we want our courts and legal system to ever be a meaningful avenue for addressing civil rights violations in our state.”

To that end, the ACLU of New Mexico is working with a diverse set of groups, including local trial attorneys, the Innocence Project, and conservative-leaning Americans for Prosperity, to pass the New Mexico Civil Rights Act (NMCRA) in the upcoming 2021 legislative session. The NMCRA would be a groundbreaking piece of legislation that would effectively abolish qualified immunity as we know it in New Mexico. Currently, New Mexico’s laws are too narrow to allow individuals to successfully sue police and other public officials for constitutional violations, and lawsuits in Federal Courts are often dead ends due to qualified immunity. The NMCRA would finally open up legal avenues in state court for New Mexicans to find justice when police and other public officials violate their rights.

“By improving police accountability through the New Mexico Civil Rights Act, we stand to improve a whole host of problems created by qualified immunity in our state,” said Jones. “Not only will it provide a meaningful path for justice when people’s rights are violated, it will incentivize law enforcement departments throughout the state to adopt and properly enforce policies and procedures that protect the rights of New Mexicans. These changes collectively have the potential to improve public trust in law enforcement, and even save public dollars by disincentivizing abusive cultures in police departments across the state.”

Everyone wants a justice system that is fair, but qualified immunity has its thumb placed firmly on one end of the scales of justice. Law enforcement officers occupy a position of great power in our society, so much so that they are authorized to kill people under certain circumstances. That kind of power, without an adequate counterbalance of oversight and accountability, will inevitably be abused. For decades, qualified immunity has provided a blank check for officers to abuse their power without consequence. It is time to tear it up.

BOARD ELECTION NOTICE

If you desire to run for one of the six open positions on the ACLU-NM Board of Directors in 2021, please send to the ACLU-NM Nominating Committee a 250-word statement expressing your interest in and qualifications for serving on the Board.

The ACLU-NM office must receive statements of interest by January 31, 2021. Nominees’ names will be placed on the election ballot and their statements will be published on the ACLU-NM website.

With the Board’s approval, the Committee will send a slate of six 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.

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, 2021.



DEMOCRACY ON THE LINE

The fight to protect every vote

By Katie Hoepfner



2020 BILL OF RIGHTS CELEBRATION

This year we hosted an all virtual, pandemic edition of our annual Bill of Rights Celebration to honor the local heroes tirelessly fighting for a more just and free New Mexico.

If you weren't able to tune in earlier this month, you can watch the whole program on our website, including a special performance from Grammy Nominated musician and indigenous activist Radmilla Cody.

Scan the QR code to watch the program on your mobile device, or go to our website at:

[ACLU-NM.ORG/2020-BOR](https://www.aclu-nm.org/2020-bor)



For months leading up to the election, President Trump spared no opportunity to spew baseless claims about mass voter fraud and sow unrest about the democratic process. It was a familiar tone. On the campaign trail in his first run, he continually complained the election was “rigged” against him. Even after he won the electoral college and assumed office in 2016, he insisted he only lost the popular vote because millions of people voted illegally.

As the 2020 election drew nearer with Biden up in the polls and state’s expanding mail-in voting to protect voters from the rising threat of the Covid-19 pandemic, Trump amplified his attacks, filing a slew of lawsuits that claimed absentee ballots would lead to mass fraud. In the first presidential debate with now President-elect Joe Biden, he rambled on about mail-in-ballots cast in his favor found in “rivers” and “creeks” and encouraged his supporters to loiter at polling locations to “watch carefully” for fraudulent activity. Then, breaking precedent with every incumbent and presidential candidate before him, he refused to agree to a peaceful transition of power.

There wasn’t—and still isn’t—evidence that mail-in ballots lead to voter fraud. Data did show, however, that Democratic voters were far outpacing Republican voters in requesting absentee ballots. And rather than acknowledge he might lose the election, he tried to set democratic norms and institutions ablaze.

Although Trump’s antics were of little surprise to us at the ACLU, they were, nevertheless, deeply concerning. A healthy democracy depends on free and fair elections. Already, states across the country unfairly disenfranchise voters, especially people of color, poor people, and elderly people, through various voter suppression tactics like mandatory photo ID laws, shortened early voting periods, limited absentee voting, voter purges, reduced polling sites, and laws that prevent people with felony convictions from voting. The result is a severely compromised democracy that does not reflect the will of the American people. In undermining people’s faith in the electoral process and encouraging his supporters to intimidate voters, Trump threatened to further suppress electoral participation.

The ACLU was prepared for this moment. As Trump spent his time peddling conspiracy theories and denigrating our democracy, the ACLU launched an ambitious campaign to ensure every eligible voter was heard and counted.

Made for this moment

In the lead up to the election, the ACLU national office and ACLU affiliates went to court in 20 states and Puerto Rico, winning 26 victories to safeguard the voting rights of millions of Americans. We successfully fought familiar attempts at voter disenfranchisement, such as unnecessary barriers to registration, automatic voter purges based on erroneous information, and needless voter identification requirements.

To ensure every American could access the ballot without having to compromise their health, we filed lawsuits in Missouri, Alabama, Connecticut, Kentucky, and South Carolina, helping win victories to expand vote-by-mail eligibility to all voters in each of the five states. In Tennessee, we successfully sued to expand vote-by-mail eligibility to those with underlying medical conditions and those who care for people with underlying medical conditions, and in Puerto Rico, to everyone over 60. We also went after state laws that require voters casting their ballots by mail to have someone as a witness when they complete their ballots and provide a witness signature, winning victories in Virginia, Rhode Island, Minnesota and Alaska.

Fortunately, New Mexico allows every eligible voter who wants one to request a mail-in ballot, and has a significant period of time dedicated to early in person voting beginning in October. While this meant people didn’t have to choose between their health and their vote, New Mexico is not immune to voter suppression efforts, and we were prepared to fight tooth and nail to defend people’s access to the ballot.

In the weeks leading up to Election Day, the ACLU communications team educated voters about important deadlines for registering, requesting and returning absentee ballots, and voting early. We also provided them with the tools to cast an informed vote by elevating the key issues at play in the race and educated them on their voting rights. Many of our members and supporters responded to our work with enthusiasm, volunteering as non-partisan poll monitors when we put out the call. Over 1,000 people, across every New Mexico county, signed up to help protect the integrity of our elections.

At the same time, our legal team reached out and partnered with local attorneys to get as many hands on deck should a need for litigation arise. They not only sponsored a Continuing Legal Education (CLE) presentation, led by Daniel Ivey-Soto, to train legal professionals on New Mexico election law, but they also worked with Common Cause

New Mexico to staff a nonpartisan voter protection hotline to assist voters encountering problems or irregularities when voting. ACLU attorneys prepared precautionary litigation in anticipation of political intimidation, fielded calls, helped answer voters' questions, and drove out to polling locations when they received reports of voter intimidation.

When Trump tried to halt the count of millions of mail-in ballots, the ACLU deployed lawyers, organizers, and advocates across all 50 states to make sure that every eligible voter's ballot was counted and to ensure the will of the American people was not subverted.

The promise of democracy

As of this writing—though Donald Trump has lost the election and the formal transition process has begun—he has still refused to acknowledge defeat. Instead, Trump, and many of his political allies, are desperately clinging to baseless claims of mass voter fraud, even though every single legal challenge filed has failed to produce a shred of evidence.

Trump's continued denigration of democratic norms ultimately won't stop Joe Biden from assuming power. But his rattling of people's faith in our entire electoral system will reverberate for some time. His political allies in states across the nation will undoubtedly seize upon this uncertainty to justify introducing more and more laws that disenfranchise voters.

One thing is clear: the ACLU will fight to not only block voter suppression efforts, but to expand voter participation. Because democracy works better when more people participate in it.

The national ACLU and state affiliates will work in coordination to:

- Dismantle a patchwork of laws that prevent approximately six million Americans with felony and, in several states, misdemeanor convictions from voting. These laws date back to the Jim Crow era and were intended to prevent Black people from voting and to protect White minority rule. While New Mexico allows people who complete their sentences to vote, our state prevents people currently serving sentences from participating in democracy. We'll work to ensure that incarcerated people are not stripped of their fundamental right to vote as a form of punishment.
- End unnecessary voter ID laws that disenfranchise people of color, transgender people, people with disabilities, people with low-income, and elderly people, who frequently have difficulty obtaining IDs, because they cannot afford or cannot obtain the underlying documents required to obtain government-issued photo ID cards, or, because of backward laws that do not allow gender changes on official IDs.
- Expand automatic and same-day registration, in-person early voting, and no-excuse absentee voting.
- Mobilize supporters to pass the Voting Rights Advancement Act, which would update the Voting Rights Act to ensure equal voting participation for all Americans and undo the damage inflicted by the Supreme Court in 2013, when it gutted vital protections against discrimination guaranteed in the historic 1965 law.

Undoubtedly, self-serving and un-American politicians will continue to try to manipulate political outcomes in their favor. But the ACLU will be there every step of the way to stop them. Nothing is more fundamental to our democracy than the right to choose our elected leaders and, ultimately, the America we want to live in. A record number of people braved a global pandemic for this promise. We will never stop fighting to ensure that the right to participate in democracy is not reserved for a privileged minority, but for all of us.

Special thanks to our 2020 Bill of Rights Celebration Sponsors!

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 at: mmccoy@aclu-nm.org

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If you own a business in New Mexico, join our community collaboration, BienvenidosAll. The ACLU works with Bold Futures, the New Mexico Dream Team, and the New Mexico Religious Coalition for Reproductive Choice to give out stickers to businesses that welcome all people in our communities regardless of their sexual orientation, gender identity, sex, race, ethnicity, disability, national origin, or religion.

You can request a sticker for your business at the link below. By joining our community collaboration, you are actively supporting a movement to build a better New Mexico
www.nmentiede.org/bienvenidosall-2/

KNOW YOUR RIGHTS UNDER THE NEW MEXICO HUMAN RIGHTS ACT

Every year, New Mexicans face discrimination when going about their daily lives, whether it's at their place of employment, school, or a convenient store. This year alone, we sued on behalf of a transgender woman who was fired by her employer because of her gender identity; a Muslim man who was harrassed while praying at his son's grave because of his religion; and a Native American student who was called racist and derogatory names by her teacher.

This kind of discrimination is illegal under the New Mexico Human Rights Act. Learn more here about what your rights are, how to exercise them, and what to do when your rights are violated in the Know Your Rights guide below.

The New Mexico Human Rights Act protects people from discrimination on the basis of race, age, religion, national origin, ancestry, sex, sexual orientation, gender identity, childbirth or a condition related to pregnancy or childbirth, physical or mental handicap or serious medical condition, and spousal affiliation in the in the areas of employment, public accommodation, housing, and credit.



Employment

It is illegal for employers to harass, fire, or refuse to hire people on the basis of the above protected categories.

The Act also requires employers to make reasonable accommodations for a person's "physical or mental handicap or serious medical condition." Employers specifically have to make reasonable accommodations for employees or job applicants with needs arising from "pregnancy, childbirth or a condition related to pregnancy or childbirth." Employers are not allowed to force people with pregnancy-related conditions to take leave unless they want to.



Public Accommodations

It is unlawful for any person in any public accommodation to discriminate against any person because of their identity. Public accommodations are considered to be spaces, whether owned privately or publicly, that are open to the public. This includes but is not limited to: restaurants, hotels, pharmacies, sports arenas, movie theatres, bars, gyms, medical offices, public restrooms, and non-brick and mortar businesses, including photographers.



Housing

It is unlawful for any person to discriminate in selling, renting, leasing, and subleasing, on the basis of the protected categories, as long as any "physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation."



Loans/Banking

It is unlawful for anyone who is providing credit (mortgages, credit cards, loans) to discriminate on the basis of the protected categories.

What to do if you think you have been a victim of discrimination:

If you believe you have been discriminated against in one of the above ways, you can file a complaint directly with the New Mexico Human Rights Bureau within 300 days of the most recent act of discrimination. You can also notify the ACLU of New Mexico.

File a complaint with the with the New Mexico Human Rights Bureau at: www.dws.state.nm.us/Filing-a-Charge-of-Discrimination

If you file the form, there will be an investigation

- The entity or employer will get to respond
- Then, if both parties agree, there is a mediation to attempt to resolve the issue – but if either party chooses not to mediate, the investigation continues

If the investigation goes forward, the investigator decides if there is probable cause or no probable cause

- If there's no probable cause, that can be appealed in court
- If there is probable cause, there is another mediation-like process to attempt to resolve the issue
- If that fails, the parties go before a hearing panel and make their case

At any point in the investigation, you can decide you don't want to go through this process and want to just file a lawsuit in court

- The Bureau will then give you a letter saying you can go forward and do that
- But you can't file a lawsuit without first at least filing a complaint with the Bureau

You can also reach out to the ACLU of New Mexico through our website at:

www.action.aclu.org/legal-intake/nm-legal-complaint