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THE TORCH

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ACLU-NM client Elaine Maestas

Twenty-One Shots

Elisha Lucero had long suffered from persistent and intense migraine headaches, but it wasn’t until her car wreck she learned the true cause. In December 2017, when she was taken to the hospital emergency room for imaging following the wreck, the CAT scan revealed a large tumor growing inside her skull, creating intracranial pressure that restricted the flow of blood out of her brain. She went into surgery in June 2018 and the surgeons were able to successfully remove the tumor. But afterwards, things were never quite the same.

“Elisha was a very compassionate, loving individual,” said Elaine Maestas, Elisha’s older sister. “She was always the life of the party. She had a smile that would brighten up the room. She was one of the most giving, selfless people I’ve ever known. It didn’t matter if you were a friend, family member, or a stranger—if you needed her, she would drop what she was doing and help you in a heartbeat.”

“But unfortunately, after the surgery, things began to go rapidly downhill and her symptoms increased in severity,” recalls Elaine. “She would get head-

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THE GOOD SAMARITAN

By Micah McCoy

Memorial Day weekend 2019, Dametrio Maldonado was travelling down westbound I-40 with his daughter, Ellen, on the way to volunteer at the Acoma Pueblo Annual Seed Run. As their family did every year, they would join with the other members of their Kiva to mark the path runners would soon take around the base of the historic 367 foot sandstone bluff, Sky City Mesa, where the Acoma Pueblo people have lived since 1150 A.D.—the oldest continuously inhabited community in North America. The annual seed run, which draws runners from around New Mexico and beyond, helps raise funds towards helping the Acoma people preserve and maintain their customs and traditions, as well as funding school supplies for Acoma students.

As the pair took Exit 96 towards Acoma, their plans were put on hold when they came across a single car accident on the interstate overpass.



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A FAMILY’S FIGHT

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PHOTO: Elisha Lucero in the hospital for surgery

aches and slur her speech sometimes; she would forget the words for things. She couldn’t get her words out right.”

The headaches became so severe that Elisha sought emergency help at the hospital on multiple occasions, and in May 2019 family members noticed drastic changes in her behavior. She began experiencing hallucinations and seizures and exhibited symptoms of psychosis. Alarmed by the rapid deterioration of her mental and physical health, Elaine arranged for a medical appointment for Elisha in August to address her sister’s concerning post-operative behavior. She never made it to the appointment.

Early in the morning of July 22, Elisha’s erratic behavior escalated. Around midnight, Elisha, in an agitated state, entered her uncle’s home in Albuquerque’s South Valley where she was staying in her RV and hit him without provocation or explanation.

“My sister wasn’t the kind of person who would do that,” recalls Elaine. “My Uncle just told her to go back to her RV to calm down. They got her to go back inside the RV and tried calling me before he called the police because I could usually talk to my sister.”

Tragically, Elaine’s new house in the village of Tijeras in the mountains east of Albuquerque had poor cell coverage and they were unable to reach her. As a last resort, Elisha’s cousin called 911 and asked for the authorities to intervene, as they had done the previous month when Elisha herself called for emergency assistance during a separate mental health crisis.

Three Bernalillo County Sheriff’s Office deputies arrived at the scene, including a deputy who had responded to Elisha’s plea for help the previous month. Unlike the prior incident, however, the deputies did not call for a Mobile Crisis Unit Team (MCUT), a law enforcement unit composed of social workers and deputies with specialized training in helping people who are experiencing a mental health crisis. Despite the foreknowledge that Elisha Lucero suffered mental health problems, the deputies not only failed to call a MCUT to assist,

they escalated the situation by banging on the door, shining their flashlights through her windows, yelling commands, and brandishing weapons outside her RV.

It’s impossible to know what Elisha was thinking or feeling in that moment and state of mind, but accounts of her reactions to the deputies’ aggressive actions outside her home that night are consistent with someone in a panicked or disoriented state. Agitated, she paced back and forth inside her RV, still half-undressed for bed, while recording the deputies outside on her cellphone. As the deputies prepared to leave her a court summons, she burst out of her RV and ran outside nude from the waist up. All three deputies opened fire.

The deputies riddled her diminutive frame. The coroner later reported she suffered from 34 individual wounds, caused by 21 separate gunshots. None of the deputies present attempted to render aid after the shooting, and she was pronounced dead at the scene.

The BCSO deputies later claimed that they opened fire because Elisha was holding a kitchen knife when she exited the RV, an allegation disputed by Elisha’s cousin who witnessed the incident from only a few feet away. However, since none of the deputies present at the shooting were equipped with body worn cameras, no corroborating evidence exists to shed light on what actually happened the night Elisha Lucero was killed.

“For me, I’ll never understand why they shot my sister 21 times,” said Elaine. “My sister was four-foot, eleven inches tall – the size of my eleven year old daughter. I don’t get that. The county is failing their deputies by not training them correctly. These men clearly did not know how to respond that night. My sister would still be here if they knew how to respond. And that’s the hardest thing for us.”

BCSO’s Campaign against Transparency

The Bernalillo County Sheriff’s Office is one of the only law enforcement agencies of size in the state of New Mexico that has yet to equip their field officers with body-worn cameras to record interactions with the public. These recording devices have become standard equip-

ment for most law enforcement agencies in the United States, with 58% reporting their use by 2018. Benefits of the technology include greater transparency in incidents where officers use force, increased accountability, quicker resolution of citizen complaints, and the ability to collect data for training purposes.

“Using officer-worn camera technology should really be a no-brainer for law enforcement agencies,” said ACLU of New Mexico Legal Director Leon Howard. “These tools make it safer both for the officers who wear them and the public they serve. Body worn cameras, when paired with robust and

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FROM THE DESK OF EXECUTIVE DIRECTOR PETER SIMONSON

Every day the news is filled with more dire predictions about COVID-19. The outlook is distressing, to be sure, but imagine how much more desperate it would seem if you had no control over your surroundings, no ability to leave or avoid the people around you, even if they became sick.

Such is the plight facing thousands of incarcerated people and immigrant detainees living in New Mexico’s correctional and detention facilities. They are at the complete mercy of their jailers, with no autonomy, no agency to decide their fate.

That might not be such a dreadful arrangement if those facilities treated their charges with the same care that hospitals treat their patients. But we know that they don’t. Every month the ACLU of New Mexico receives dozens of complaints about conditions in New Mexico correctional facilities and ICE detention facilities. Some are protesting the denial of basic medical care, others the lack of hygiene. Ventilation is poor and many facilities are overcrowded.

In brief, the conditions are ripe for the outbreak of disease. Not surprisingly, more than 40 percent of incarcerated people in New Mexico are infected with Hep-C, most of whom contracted the illness while in custody.

From that vantage point, the viral threat now barreling down on our state looks not just like a public health emergency, but like a veritable death sentence. Who gets sick and how severely could vary widely from facility to facility based on how seriously administrators and wardens of jails, prisons, and immigration detention centers take the threat.

This is why we, like dozens of ACLU state affiliates across the country, sent letters to our jails, prisons, immigrant detention centers, and elected officials early on asking that they take immediate steps to mitigate the spread of COVID-19 in detention facilities.

The response was disappointing to say the least. Most stakeholders either ignored our inquiry or kicked the can down the road to some other “responsible” party. Though some facilities have since taken small steps in the right direction and Governor Lujan-Grisham recently ordered the release



of certain people who are within 30 days of parole, the response falls significantly short of the change we need. The governor’s order, for instance, has resulted in the release of under a dozen people from prison to date.

We haven’t given up.

As I write, we just filed an emergency petition asking the New Mexico Supreme Court to reduce the prison population in our state by ordering the release of people who are at an increased risk of serious illness from COVID-19, those held on non-serious offenses, and those within a year of release. This week, we’re preparing to file another petition with the national ACLU in federal court seeking the release of vulnerable immigrants from ICE detention.

As we have seen in places like New York, Illinois, and California, once COVID-19 gains a foothold in detention facilities, the spread is quick and devastating. And outbreaks do not just affect the people detained in correctional facilities; They threaten the staff who work there and surrounding communities at large.

In this and all times of crisis, it is critical that “We The People” truly means all of us. Rest assured, our team is working around the clock, vigilant as always, to fight for a more just society that includes everyone.

[Handwritten signature of Peter Simonson]

consistently enforced policies regarding their use, provide a clearer and more transparent account of a use of force incident. Video evidence can be an important factor in corroborating an officer’s testimony, or it can be instrumental in revealing serious wrongdoing. Oftentimes the mere knowledge that interactions with the public are being recorded is enough to help slow things down and prevent dangerous escalation.”

Despite the many and manifest benefits of body worn cameras, BCSO Sheriff Manny Gonzales has steadfastly refused to equip his deputies with them. Even in the face of widespread evidence to the contrary, Gonzales has asserted that body-worn cameras will do nothing to improve transparency and accountability in his department, and

even went so far as to claim that body worn cameras would be a “distraction” for his deputies. When the Bernalillo County Commission allocated half a million dollars in April 2019 to begin equipping the department with body worn cameras, Sheriff Gonzales refused to use the funds as allocated, stating that, “They have no business telling us operationally what we will use for this department.”

Meanwhile, people living in Bernalillo County have watched with growing alarm as BCSO’s officer involved shootings spiked in recent years, with an accompanying rise in lawsuits against the agency. In 2017, BCSO deputies opened fire on two

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“

If I can help prevent someone else’s Elisha, and someone else’s family from going through what we’ve been through—I’m going to do it. That’s why we’re fighting: to honor her.

”



HEAR MORE FROM ELAINE

Use your mobile device’s QR code reader to watch a video of Elaine Maestas talking about her fight for justice on behalf of her sister, or find the video at the ACLU-NM YouTube channel at: www.youtube.com/aclunm.



A FAMILY’S FIGHT

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unarmed men suspected of stealing a vehicle, killing both. The incident resulted in three separate civil lawsuits, costing county taxpayers \$1.8 million dollars in settlements. The incident was only one of nine officer involved shootings for BCSO that year.

After the shooting of Elisha Lucero, the simmering dissatisfaction with BCSO’s lack of accountability boiled over. Led by Elaine Maestas and other Lucero family members, Bernalillo County residents came together to demand that Sheriff Gonzales equip his deputies with body-worn cameras and implement better training and protocols for dealing with people experiencing a mental health crisis.

In October of 2019, the Bernalillo County Commission responded to the public outcry by unanimously approving a resolution recommending that BCSO “implement a plan to purchase, install, use and manage dashboard and lapel cameras.” The commission allocated \$1 million for body cameras in seed money, along with a recurring allocation of a further half million annually. But due to the unique nature of the Sheriff’s office, an independently elected public official accountable primarily to voters rather than the commission, the commission found itself limited in its ability to compel BCSO to actually use the funds as allocated. After arguing against the resolution before the commission, Sheriff Gonzales remarked to the press following the vote that he is “always willing to have discussion [about body cameras], but it doesn’t mean I’m going to move my position.”



Elisha Lucero and Elaine Maestas

The Price of Bad Policing

The ACLU of New Mexico has been at the forefront of law enforcement accountability efforts since its founding in the early 1960s, and in the last decade has been a leader in the community movement to reform the Albuquerque Police Department’s use of force policies following a spree of officer involved shootings. The ACLU of New Mexico has also been one of the loudest voices advocating for BCSO to join the 21st century by equipping its deputies with body worn cameras. Following Elisha Lucero’s death, the ACLU of New Mexico immediately connected with Elaine Maestas and the Lucero family to amplify and support their efforts to bring greater transparency and accountability to BCSO.

“When she first died, my thought was, ‘How can this happen to her?’,” recalls Elaine. “How can I change things so this never happens again? So I came to the ACLU and learned how they’d been advocating for lapel cameras; and that’s how my journey started. I started going to each one of the commission meetings, speaking out to say ‘We need to hold those who serve us accountable. There has to be a level of transparency we don’t have right now. It’s not fair to the public. It’s not fair to the deputies. Transparency benefits all of us.’”

In cooperation with the Lucero family, the ACLU of New Mexico mobilized its supporters to pack Bernalillo County Commission meetings to demand implementation of body worn cameras, spoke out forcefully for needed reforms in the media, and organized a groundswell of online support for transparent policing in Bernalillo County. Even the Albuquerque Journal, not well known for its progressive editorial stances, came out strongly against Sheriff Gonzales’ stubborn refusal to equip his deputies with cameras.

Despite this overwhelming pressure from county residents, the commission, and the press, Sheriff Gonzales has remained steadfast in his refusal.

“It’s extraordinarily frustrating,” said Howard “Because of how the system is structured, there is little opportunity to hold a Sheriff accountable outside of the ballot box. In our increasingly polarized political environment, we’re seeing more and more Sheriffs become rogue actors, not just here in New Mexico, but across the United States.”

Though Sheriff Gonzales appears to feel immune to public pressure, he and his department are still subject to the rule of law and the courts. In November 2019, the ACLU of New Mexico and civil rights law firm Kennedy Kennedy & Ives (KKI) filed a civil lawsuit on behalf of Elaine Maestas and the Lucero family demanding that the county pay damages for their role in Elisha’s wrongful and entirely avoidable death. In an unusual move, the county chose to enter into settlement negotiations only four months after the filing of the suit. In March 2020, the ACLU of New Mexico and KKI settled the lawsuit with the county for \$4 million, one of the largest settlements of its kind in New Mexico.

“This settlement should come as a wake up call for the Sheriff,” said Laura Schauer Ives, KKI partner and ACLU of New Mexico cooperating attorney. “The department needs to commit to better training, transparency, and accountability moving forward. If they insist on maintaining the status quo, families will continue to suffer needlessly and taxpayers will continue to foot the bill.”

The settlement is not the end of the fight for Elaine and the Lucero family however. They remain committed to working with the ACLU of New Mexico to bring lasting reform to BCSO, including equipping all deputies with body cameras, implementing better officer training, and dismantling the department’s culture of aggression.

“We want to keep this from ever happening to someone else’s family member,” said Elaine. “That’s why we’re advocating the way we are. I can’t change what happened to my sister, and that breaks my heart. But if I can help prevent someone else’s Elisha, and someone else’s family from going through what we’ve been through - I’m going to do it. That’s why we’re fighting: to honor her.”

THE GOOD SAMARITAN

Continued from page 1

“There was a young lady sitting on the roadway next to the vehicle crying profusely, so I pulled the car over and I told my daughter to get out and see if she could render aid or if there was anything we could do for her,” recalls Dametrio.

After Ellen exited their car to check on the distressed motorist, Dametrio pulled the car over to the overpass shoulder and called 911. In minutes, Acoma tribal police arrived on the scene, followed shortly thereafter by New Mexico State Police Officer Sondre Loberg. Instead of joining the Acoma officer in tending to the crashed motorist and gathering statements, Officer Loberg fixated on Dametrio.

Only moments after arriving at the scene of the accident, Loberg can be heard on the recording made by his dashboard camera angrily yelling at Dametrio over the external loudspeaker, “You! Leave! Move!”

Startled and confused, Dametrio attempted to inform Loberg he was waiting for his daughter while she gave her statement to the Acoma police, but Loberg cut him off with increasingly irate demands that he move his vehicle. Dametrio complied, giving the officer a wave and a smile in polite acknowledgement as he began moving his vehicle further down the road off the overpass.

Taking the smile as insult, Officer Loberg whipped his patrol unit around and followed Dametrio away from the scene of the accident. Loberg ordered Dametrio out of his vehicle, demanded his license and registration, and told him to place his hands on the hood of the patrol vehicle.

Without warning, Officer Loberg seized Dametrio’s wrists and wrenched his arms behind his back in an attempt to handcuff him. Because of his large stature, Dametrio’s wrists were unable to meet behind his back and Loberg became more frustrated and violent in his attempts to place him in cuffs.

“You trying to fight me?,” Loberg asked, as he wrenched Dametrio’s arms behind his back, causing excruciating pain in his wrists and shoulders. “You been drinking today?”

Loberg then slammed Dametrio against the hood of his patrol unit with enough force that his phone screen shattered in his pocket, and torqued the handcuffs down so tight that they bit deep into Dametrio’s wrists.

“I was in fear for my life,” remembers Dametrio. “I didn’t say anything to him, or resist. I was afraid that one wrong move would mean he would use deadly force against me.”

Still without explaining why he was detaining Dametrio, Loberg shoved him into the back of his patrol unit, nearly slamming the door on his leg as he struggled to pull himself fully inside. He remained in the back of the patrol vehicle for more than 20 minutes with his arms restrained behind his back in agonizing pain until the Acoma tribal police officer intervened and persuaded Loberg to release him.

But the ordeal still wasn’t over. Even after Officer Loberg removed the handcuffs, he continued to verbally harass and intimidate Dametrio for several more minutes by the side of the road, threatening to arrest him and hold him in jail without bail over the holiday weekend. Finally, he issued Dametrio a traffic citation for “unlawful parking” and released him. The citation was later dismissed when Officer Loberg failed to appear in court.

Experiencing lingering pain in his arms and shoulders following the incident, Dametrio went to the emergency room to assess his injuries and ultimately

PHOTO: A frame from the dashcam video depicting Officer Loberg shoving Dametrio Maldonado up against the hood of his patrol unit.



had to travel to Albuquerque for advanced imaging. Loberg’s excessive use of force required Dametrio to undergo physical therapy and forgo farming his land during the ensuing growing and harvest seasons. His injuries also prevented him from participating in traditional ceremonies and dances that are integral to the cultural and spiritual life of the Acoma people. It took the better part of a year for Dametrio to fully recover physically from the encounter. But some wounds take longer to heal.

“One of the last things the officer told me before he let me go was ‘I’ll remember you.’ Now anytime I’m driving down the road, it’s always in the back of my mind that it could happen again,” said Dametrio. “I believe that you ought to be able to call for help or render aid when you come upon someone in

PHOTO: A frame from Officer Loberg’s dashcam video showing the scene of the crash discovered by Dametrio Maldonado.

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PHOTO: Cuff marks on Dametrio's wrist following the incident



“
I believe that you ought to be able to call for help or render aid when you come upon someone in distress without fearing that the police will brutalize or wrongfully arrest you.

”

THE GOOD SAMARITAN

Continued from page 5

distress without fearing that the police will brutalize or wrongfully arrest you.”

Sadly, Dametrio’s experience is far from rare. Police discrimination, harassment, and violence against Native Americans is endemic in the United States. According to a poll conducted by National Public Radio, 55% of Native Americans living in majority Native areas report they have experienced discrimination when interacting with police. According to a 2009 National Council on Crime and Delinquency Report, Native Americans are arrested and incarcerated at disproportionate levels. Compared to whites, Native people are 1.5 times more likely to be arrested and four times more likely to be booked into prison. Most disturbingly, the CDC reports that, when compared to their percentage of the U.S. population, Native people are more likely to be killed by police than any other group—more than three times the rate of whites. Many journalists and academics following the issue suspect the actual rates to be even higher, given that police shooting victims of Native American descent are often misidentified by police as belonging to other races.

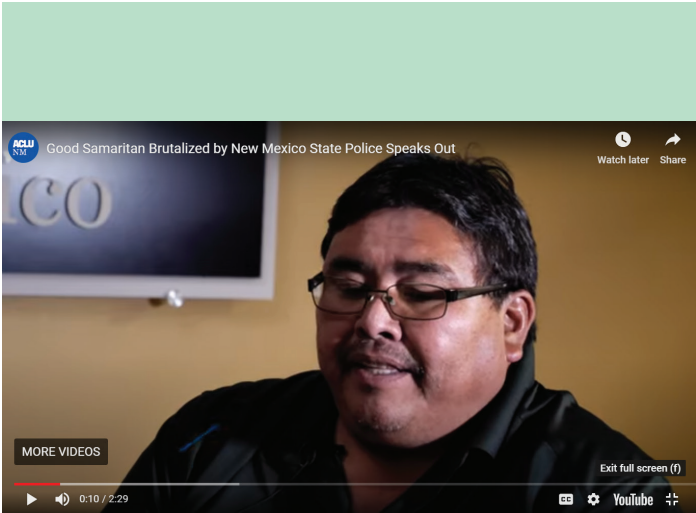
“Native Americans face discrimination across the entire continuum of the criminal legal system, not just in New Mexico, but nationwide,” said ACLU of New Mexico Indigenous Justice Attorney Preston Sanchez. “From racially motivated stops, all the way through elevated arrest rates and disproportionately harsh sentencing, the system is stacked against Native Americans. We likely don’t even have a clear picture of how bad things really are. The statistics available to us now probably only represent the tip of the iceberg.”

Because of the system wide inequities Native Americans face baked into every area of our society — from criminal justice, to education, to access to healthcare and basic services—the ACLU of New Mexico has increased its investment in indigenous justice work. Over the last year, the ACLU of New Mexico has hired a dedicated attorney to litigate indigenous justice cases and filed lawsuits on behalf of a Cochiti Pueblo artist held at gunpoint by Santa Fe Police and a Navajo Albuquerque high school student who experienced racial harassment from a teacher.

On March 3, the ACLU of New Mexico continued its commitment to protect the rights of Native Americans by filing an excessive force lawsuit against New Mexico State Police on behalf of Dametrio Maldonado. The lawsuit also included a claim for First Amendment violations based on the retaliation Dametrio faced for smiling at Loberg, which is a protected form of expression under the constitution.

“Mr. Maldonado was simply trying to do the right thing by rendering aid to a crashed motorist,” said Sanchez, “Instead of thanking him for doing what any humane and civic minded person would do, a responding NMSP officer singled him out for harassment and abuse resulting in lasting injury. This kind of dangerous and discriminatory policing has no place in a diverse state like New Mexico.”

New Mexico is home to twenty-three Native American pueblos, nations, and tribes, many of which have called this land home since time immemorial. They are the original inhabitants of New Mexico and they continue to be a vital and integral part of our communities, culture, and economy. Native people deserve to be treated with dignity and respect, especially by the law enforcement officers who are sworn to serve and protect them. With this lawsuit, we’re putting New Mexico State Police and law enforcement throughout New Mexico on notice that discrimination and abuse will not be tolerated on our watch.



HEAR MORE FROM DAMETRIO

Use you mobile device’s QR code reader to watch a video of Dametrio talking about the police brutality he experienced, or find the video at the ACLU-NM YouTube channel at: www.youtube.com/aclunm.



FIGHTING FOR REPRODUCTIVE FREEDOM THROUGH POLITICAL ATTACKS AND PANDEMICS

An interview with ACLU-NM Reproductive Rights Attorney Ellie Rushforth

The right to use birth control. To end a pregnancy. To bear children. To access reproductive health-care. To be free of pregnancy discrimination in the workplace. These are the rights that women have fought for that allow them to live lives of freedom, dignity, and autonomy.

As essential as these rights are, they are under constant attack. Elected officials with a political agenda continually try to roll back these gains. Often times, they pass blatantly unconstitutional bills, like the abortion bans introduced in states throughout the south and midwest last year. Sometimes, they try to find an end-run-around the law, passing restrictions and creating barriers that make access practically impossible. And other times, they cut funding for critical services — like mammograms, STI tests, or pre-natal care — making it impossible for low-income women to get care. In the wake of the COVID-19 pandemic, politicians have stooped to new lows, using a global public health crisis as an opportunity to ban abortion, claiming it is non-essential healthcare.

We sat down with ACLU-NM Reproductive Rights Attorney Ellie Rushforth for a conversation on how, through every attack, the ACLU is working tirelessly to uphold and expand reproductive rights and access for all New Mexicans.

The Torch: We hear the term reproductive rights all the time, but what exactly are they?

Ellie Rushforth: Reproductive rights are the laws, regulations, and judicial opinions and decisions that protect our ability to control if, when, and how we parent and all other aspects of our reproductive lives. Whether or not we can actually exercise these rights depends on so much more, including access to systems of care and insurance, arbitrary and medically unnecessary restrictions, and the political climate that we’re living in.

TT: What is the ACLU of New Mexico’s vision for reproductive freedom in New Mexico?

ER: Our vision for New Mexico is simple. It’s that everyone in New Mexico will be able to exercise their reproductive rights and control their own reproductive lives without interference.

TT: How is the ACLU fighting to achieve this vision for reproductive freedom in New Mexico?

ER: We work proactively at the state legislature to pass and ultimately enact pro-reproductive health, rights, and justice legislation, like the bill we worked to pass last session protecting pregnant workers from discrimination. We also work defensively at the legislature to ensure that anti-reproductive health, rights, and justice legislation does not reach the governor’s desk. In addition to our political advocacy, we identify instances in which people’s reproductive rights have been infringed upon and litigate those cases. And finally, we work to educate the community on their rights because if you don’t know about your rights how can you begin to safeguard them?

TT: There’s a case, June Medical Services v. Russo, currently before the Supreme Court, for which an adverse decision could negatively impact the vision you described. Can you talk a little bit about the case?

ER: The suit concerns a law that was passed in Louisiana requiring abortion providers to have admitting privileges at nearby hospitals, even though there is no medical justification for such a requirement. The Supreme Court will decide if this

is constitutional or if it creates an undue burden for women. If the issue sounds familiar it’s because in 2016 the Supreme Court heard a case about an identical law passed in Texas, and decided it was unconstitutional. If the law is upheld this time, it will close clinics. That’s because providers don’t require hospitals to perform abortions and are unlikely to receive admitting privileges when they rarely admit patients.

TT: How would this affect New Mexico?

ER: An adverse decision in June Medical Services would essentially open the door for states to regulate abortion however they want as long as they make minimal justifications. So we anticipate states across the country passing similar laws, resulting in clinic closures. As that happens, women will have to travel further, wait longer, and to risk their health, safety, and wellbeing to seek the care that they need. We would anticipate seeing an influx of patients into New Mexico taxing our existing infrastructure. Additionally, anti-abortion extremists who have been working in these other states for the past 10-15-30 years will turn their attention to New Mexico. They will wait outside clinics to shame, harass, and assault people seeking care.

TT: On top of everything, states like Texas have declared abortion care non-essential during the COVID-19 pandemic. What do you say to that?

ER: I say playing politics with people’s lives during a time of crisis is dangerous and wrong. Abortion care is a time-sensitive medical procedure that cannot be delayed. Declaring it non-essential will force women to travel long distances and risk their health during a global emergency.

That’s why we wrote letters to our elected officials advising them to consider abortion care; all forms of birth control; STI screening, testing, and treatment; vaginal health and treatment; prenatal, delivery, and postnatal care as essential reproductive services that must remain accessible at all times. As the pandemic unfolds, and as any other crisis emerges, we will continue fighting to uphold New Mexicans’ reproductive rights and to ensure those rights can be exercised.



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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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2020 LEGISLATIVE
SESSION OVERVIEW

By Steven Robert Allen

Heading into the 2020 30-day legislative session, we knew we had our work cut out for us. Not only is it notoriously difficult to pass proactive legislation in a month’s time, but it’s an election year and our communities are still grappling with high rates of crime. We knew legislators would be tempted to return to the hyperpunitive sentencing policies of days past in a gesture of commitment to public safety.

The problem is—as history has shown us time and time again—these policies do nothing to improve public safety because they don’t tackle the underlying causes of crime. Instead, they ensnare people in vicious cycles of substance abuse, mental illness, and poverty. Because of racial bias in the criminal legal system, harsh sentencing policies also disproportionately impact people of color.

So as legislators got busy ripping pages out of the old, failed, “tough-on-crime” playbook, we got busy trying to move lawmakers away from political sloganeering and toward evidence-based approaches to crime.

In close collaboration with New Mexico SAFE coalition partners and our Smart Justice Advisory Board members, we testified in committee meetings, met with legislators, and spoke to reporters about the harmful effects of stiffer penalties. And we didn’t stop there. We mobilized hundreds of activists to write emails and call legislators urging them to resist policies that have failed our communities for decades. Dozens of those activists, including crime survivors and people impacted by the criminal legal system, packed the Roundhouse on End Mass Incarceration Day of Action in early February to demand a justice system that prioritizes treatment and rehabilitation over incarceration.

Our tenacity paid off. By the end of the session, we had either neutralized or defeated every single draconian crime bill.

While reporting back that we whittled away at a slew of harmful measures isn’t nearly as exciting as recounting the bold public safety legislation we passed in 2019, we can’t underestimate the importance of holding the line. Those bills, if passed, would have undermined the crucial progress we’ve made in the fight for a more just and safe New Mexico.

Our success demonstrates that our message is resonating. We’re in a good position next year to pass a number of smart second-chance bills that will remove barriers to success. Legislation that helps formerly-incarcerated people to get back to work and that prevents people from being sent back to prison because of technical violations of probation and parole will be major priorities for us in the sixty-day session.



While we focused much of our efforts on beating back harmful sentencing policies, we also made significant headway in our fight to advance reproductive freedom and immigrant rights.

After five years of working with community partners to pass a bill to prevent pregnant people from having to choose between a healthy pregnancy or a paycheck, our efforts bore fruit. The Pregnant Worker Accommodation bill—passed unanimously by the House and the Senate and signed into law by Governor Lujan-Grisham—amends the New Mexico Human Rights Act to make pregnancy and childbirth a protected class. Under the new law, employers with four or more employees are required to grant reasonable accommodations (like extra breaks to use the bathroom, pump, or visit the doctor) for pregnant women and new moms. The bill also makes it illegal for an employer to force a person who is pregnant or who has recently given birth to take unpaid or paid leave.

Pushing the bill across the finish line was a giant step forward for reproductive rights, but we still have more work to do. We spent much of the session, and will spend much of the year, hammering home the message that stripping women of their will and handing it over to lawmakers with a political agenda is an act of violence. When the session opens next year, we’ll be ready to hit the Roundhouse running to repeal New Mexico’s old, dangerous abortion ban so that regardless of what happens at the federal level, women can make their own reproductive decisions.

We’ll also be ready to renew the fight for legislation that protects New Mexicans’ sensitive personal information from federal government overreach. Although Governor Lujan-Grisham did not put the bill we supported on her agenda, we demonstrated the urgency of such legislation. In a co-published report with Somos un Pueblo Unido, we revealed that state agencies have been disclosing New Mexicans’ sensitive personal information to federal agencies like Immigration and Customs Enforcement. This is especially dangerous for immigrant families who already face fear when accessing essential health and public safety services. As a result of our report, we’re well positioned to pass a bill preventing this breach of public trust next year.

Although this session was an uphill battle, we moved the needle significantly on reform. Working around the clock and alongside impacted people, community partners, and volunteer activists, we inched closer to achieving the just, equal, and humane New Mexico our communities deserve. We know that when we change lawmakers hearts and minds, we change their votes. It may not happen overnight, or even in 30 days, but we’re in the fight for the long haul. In election years, in short sessions, in long sessions. No matter what.