



# the TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

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## LIVES IN THE BALANCE

Trump's Deportation Machine Sets Its Sights on New Mexico



*"Honey, I love you. I'm not coming back."*

He kissed his wife of thirteen years gently. Then, Immigration and Customs Enforcement escorted him out the door. Though they told him they were just taking him in for questioning, Abbas Oda Manshad Al-Sokaini knew he wouldn't be coming back.

The morning of June 20, when federal agents startled him out his sleep with loud banging on the windows and doors, was the last time Abbas woke up in his Albuquerque home. Since then, he's seen his family only from the confines of a detention center in El Paso, Texas.

Abbas came to the United States from Iraq as a political refugee in the 90's after facing torture by Saddam Hussein's regime. As an Iraqi soldier, he collaborated with American troops by providing information about the location of the government's weapons and ammunition caches.

He's lived peacefully in Albuquerque with his wife, three stepchildren, eleven grandchildren, and five great-grandchildren, all of whom are U.S. citizens, for decades. But under the new administration, Immigration and Customs Enforcement (ICE) decided that a non-violent drug conviction from seventeen years ago warranted his deportation. If sent back to Iraq, his family fears he will face persecution, torture, or worse.

"Abbas is the backbone of our family," said Brenda Sisneros, Abbas' wife. "He has deep roots here in Albuquerque, and we want him to come back home. He made a mistake many years ago, but everyone's human. People in Iraq know he's involved in my church, and he could face violence if they make him go back. I don't want my family to lose him."

Abbas is not alone. In early June, ICE agents conducted a series of mass raids rounding up more than one hundred Iraqis who had some sort of criminal conviction on their record, often only misdemeanors incurred decades ago. Although these past infractions made them removable under federal immigration law, the United States lacked a repatriation agreement with Iraq, which made deportation impossible. Instead, they maintained regular check-ins with ICE and the overwhelming majority lived peacefully in their communities with their families. Overnight all of that changed.

In March, Trump's administration struck a deal in which Iraq agreed to accept Iraqi nationals with final orders of deportation back into the country. In exchange, Trump agreed to remove Iraq from his anti-Muslim travel ban list. Suddenly, more than 1,400 Iraqi nationals—most of whom came to the United States as refugees—were in danger of deportation. Due to religious minority status or prior collaboration with the U.S. armed forces,

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## Frontline Pharmacy

The ACLU's Fight to Protect Reproductive Rights Where the Rubber Meets the Road

What good are reproductive rights if you can't exercise them? What does it matter if abortion is safe and legal if the nearest abortion provider is hundreds of miles away? What does your right to birth control count for if you can't afford the doctor's visit for the prescription? What if you have a prescription for reproductive health medications, but your pharmacist—for personal reasons of their own—refuses to fill it?

The shameful truth in America is that your access to reproductive healthcare has a lot more to do with where you live and your income than anything else. We believe that people's rights shouldn't be contingent on zip codes, tax-brackets, or the personal religious beliefs of others. That's why the ACLU isn't just fighting to ensure that reproductive rights exist on paper; we're fighting to ensure we can actually use them as well.



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**Lives in the Balance**

*Continued from page 1*

a return to Iraq would be tantamount to a death sentence for many.

Kadhim Albummohamed understands these consequences all too well. Like his friend Abbas, Kadhim is a longtime resident of Albuquerque and assisted the United States Military during the First Iraq War. After suffering torture and persecution at the hands of Saddam’s henchmen, he fled Iraq and settled in the United States as a refugee. When the U.S. invaded Iraq again in 2003, he worked several years for the U.S. Military training troops with crucial linguistic and cultural skills in preparation for deployment. Because of his service to the U.S. Military, he is certain he will face torture or death if he is deported to Iraq.

“If they send me back, I will be killed,” said Kadhim. “One hundred percent.”

Because of two misdemeanor convictions twenty-one years ago, Kadhim, a chronically ill 61-year-old father of four U.S. citizen children, has suddenly jumped to the top of ICE’s list. ICE agents began tailing him, even to appointments with his immigration attorney, and Kadhim feared that any day his family could be frightened from their sleep by pounding at the door.

To spare his wife and daughter from seeing him dragged away by ICE, he took precautions. Kadhim packed his bags and sought refuge with a local faith community, living and sleeping in their sanctuary. Not long after, ICE sent him a letter ordering him to report to the local field office on June 26. His attorney advised him that at this appointment ICE would likely take him into custody and place him in immigration detention.

“I’m scared because if he does go, will I ever contact him, will I ever get to call him again,” asked his seventeen-year-old daughter, Courtney, as tears ran down her face. “It’s hard because what is the last thing you’re going to say to your dad when you know it’s going to be the last time you’re going to see him? I don’t know what I’m going to say. I don’t want to have to think about that because he’s my best friend and I don’t want him to leave.”

Kadhim reported for his meeting with federal agents that morning—and so did more than a hundred protesters. Word had spread about Kadhim’s plight, and outraged community members, religious leaders, and TV cameras clogged the streets outside the local ICE field office. ICE, shaken by this overwhelming public show of support, cancelled all appointments for the day providing Kadhim and his family a brief reprieve.

At the press conference outside the ICE field office that day, the ACLU of New Mexico announced that it was representing Abbas as part of a class action lawsuit filed by the ACLU of Michigan and the ACLU’s Immigrants’ Rights Project to block the deportation



**PHOTO:** Kadhim Albummohamed with his wife, his daughter Courtney and son Ali.

of more than 1,400 Iraqi nationals, including Abbas and Kadhim. On July 24, Detroit Federal Judge Mark Goldsmith granted our request for a preliminary injunction, halting the deportation of all Iraqi nationals in the United States while they argue their cases before an immigration judge and have the opportunity to demonstrate the danger they would face if deported. For now, they are able to stay in the country where they have raised families, paid taxes, and built careers. They now at least have a fighting chance of escaping the persecution, torture, and death that awaits many of them in Iraq.

This extraordinary victory gives us hope that our Albuquerque neighbors will soon be able to return to their homes and to their families. Kadhim, now considered an ICE fugitive after not reporting for final removal in July as directed, is currently living 24 hours a day in a local church that offered him sanctuary while he pursues his immigration case. Though the ACLU of New Mexico

has helped Abbas find an immigration attorney to fight his removal, he remains in detention in El Paso, hundreds of miles away from his family.

Despite our recent victory in court, we still have our work cut out for us. Trump is ordering federal law enforcement to move ever more aggressively to deport undocumented immigrants all across the country. A veteran Immigration and Customs Enforcement (ICE) agent, who spoke under the condition of anonymity, recently told the New Yorker that an unsettling “new order” was taking root at ICE. The agent told the magazine that since Trump took power they “seem to be targeting the most vulnerable people, not the worst.”

The agent expressed concern that his colleagues were increasingly targeting children and teens and locking people up just because they could. The agent’s superior even boasted that it was the “the most exciting time to be a part of ICE.”

**“Honey, I love you. I’m not coming back.”**



**Brenda Sisneros & Abbas Al-Sokaini**

“We used to look at things through the totality of the circumstances when it came to a removal order — that’s out the window,” the agent said.

This “new order” is all the more disturbing in light of Trump’s ongoing efforts to push congress to approve funds for an additional 10,000 ICE agents and 5,000 Customs and Border Protection (CBP) agents.

The last time Customs and Border Protection raced to hire thousands of agents in a short period of time, the results were disastrous. Under former President George W. Bush, the hiring of about 17,000 agents over six years resulted in substantial allegations of corruption and excessive use of force.

Despite concerns from the Department of Homeland Security’s Office of Inspector General, that the data does not support the operational need for such a substantial increase in personnel and that both ICE and CBP may not be able to find enough qualified applicants to fill the positions, Trump remains single minded in his quest to further militarize our border communities.

He is not alone in his assault on the country’s most vulnerable.

Trump’s attorney general, Jeff Sessions, remains so determined to make misery in the lives of immigrant families that he recently threatened to withhold federal funds from cities with high-crime rates if they didn’t assist federal immigration enforcement efforts.

At the beginning of August, Sessions sent letters to Albuquerque, Baltimore, Stockton, and San Bernardino, putting them on notice that they would not be eligible for federal funds to combat drug trafficking and gang crime unless they gave federal immigration authorities access to jails and agreed to notify agents in advance of releasing inmates with immigration violations.

The ACLU of New Mexico and other immigrant advocacy organizations quickly mobilized their members, flooding the

*Continued at bottom of page 3.*

## FROM THE DESK OF EXECUTIVE DIRECTOR PETER SIMONSON



### No One Is Above the Law

In a democracy, one of the indispensable principles is the notion that no person is above the law. This precept is the great stabilizer of nations and provides the foundation for rule of law in the land. When all people are held accountable to the same set of rules, abuse and tyranny are minimized and even the least powerful among us have access to justice.

But with the pardoning of Sheriff Joe Arpaio on August 25th, President Trump trampled on this core principle and told the world in no uncertain terms that he believes some people in the United States are indeed above the law.

You are likely familiar with Arpaio, whose infamous tenure as Sheriff of Maricopa County, Arizona was defined by systematic racial discrimination, cruelty, and wanton disregard for the law. These pages are too few to provide a full accounting of his unlawful conduct, but here is a brief overview:

- Arpaio ordered his deputies to target Latinos and other minorities in traffic stops, workplace raids, and neighborhood sweeps, often illegally detaining them without reasonable suspicion that they had violated any laws. These racially motivated, pretextual stops were used as a way to screen the immigration status of people who were perceived to be “foreign.”
- In the Maricopa County Jail, Arpaio erected a tent city outdoors surrounded by an electric fence which he proudly compared to a “concentration camp” where he kept “all the Mexicans.” Temperatures inside the tents regularly exceeded

120 degrees during the summer, and inmates were forced to work in chain gangs reminiscent of the Jim Crow era.

- He was so obsessed with targeting undocumented immigrants that he neglected to investigate sex crimes, including abuse against children.

In 2007, the ACLU filed a class action lawsuit against Arpaio alleging that he was using racially biased policing to illegally enforce federal immigration law. The ACLU prevailed and a federal court ordered Arpaio to cease these illegal activities in 2011. However, Arpaio deliberately allowed these practices to continue unabated, and even bragged to the media that he had no intention of changing his ways. This led to a civil contempt proceeding and ultimately a criminal conviction for contempt of court, carrying a sentence of up to six months in prison. His sentencing was set for October 6th this year.

And now, because of Trump’s pardon, the countless families tormented by this man’s 24 year reign of terror will not have justice. But even beyond that, Trump’s pardon of Arpaio sends a message loud and clear that if rogue law enforcement agencies wish to enforce federal

immigration law, target people of color, or commit wholesale violations of constitutional rights, they may do so with impunity.

This has chilling implications for New Mexico and other border states. How many wannabe Arpaios lurking in the wings will be emboldened to follow his lead now that they see that racially discriminatory policing bears the presidential seal of approval?

Fortunately, the ACLU of New Mexico has spent the better part of a decade advocating against the unholy alliance of local police and the federal immigration law enforcement here in our state. Many of our largest communities have repudiated the Arpaio model of policing and enacted immigrant-friendly policies that build trust and cooperation between local police and immigrant communities. But that does not give us license to rest on our laurels.

It remains incumbent upon us all to remain vigilant and ensure that Arpaio’s brand of racist, authoritarian policing finds no purchase in our communities. If you hear about local law enforcement cooperating in federal immigration raids or checkpoints, be sure to alert us here at the ACLU of New Mexico. Because despite whatever Trump might say or do, we still believe that no person is above the law. And we intend to keep it that way.



Peter Simonson  
Executive Director

## Lives in the Balance

*Continued from page 2*

mayor’s office with calls and packing the city council meeting to demand that Albuquerque’s leaders take a stand against Sessions’ bullying tactics. When Bernalillo County Commissioner Wayne Johnson introduced a measure a few days later that would require the county jail to cooperate with ICE in enforcing federal immigration law, the ACLU and its network of grassroots activists stood with community allies to lobby the council to block the measure by an overwhelming majority, ensuring that the largest metro area in the state will remain an immigrant friendly community.

To keep our communities safe in the face of this administration’s ongoing efforts to vilify and uproot our immigrant neighbors, we have to stand strong together. We must continue showing support for our immigrant neighbors each and every time they come under attack.

Abbas and Kadhim are fathers, husbands, patriots, and they are our fellow Americans. They are two people among thousands in New Mexico who live every day in fear that their families will be torn apart and their lives shattered. They deserve better than languishing in detention far away from family or hiding out in constant fear of being arrested. The United States should be a place of refuge for people who have fled persecution, not a country that breaks up families and sends long-time residents and people who have served alongside our country’s troops into certain danger.

We’ve strayed so very far from the ideals that make our country great, but it’s not too late to restore basic fairness, compassion, and decency to our country’s immigration enforcement practices. It will be a long, hard fight—but it’s one worth fighting—and it’s a fight we will continue every single day until people like Abbas, Kadhim, and countless others can live safe and free with their loved ones.

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## Frontline Pharmacy

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### Winning Prescriptive Authority

Here in New Mexico, the ACLU has made several important strides in recent months towards guaranteeing meaningful access to reproductive healthcare in our communities. Behind the scenes for over a year now, we've been working with community partners, pharmacists, and the medical community to change the rules in our state so that pharmacists now have prescriptive authority for certain types of contraception. That means that any pharmacist who undergoes the proper training and certification can directly prescribe birth control to anyone who needs it, no separate doctor's visit necessary.

Allowing pharmacists to prescribe contraception is a game changer for New Mexico. Our state is huge and many of our communities are very remote. That combined with ongoing shortages of primary health care providers, especially in rural areas, along with high rates of poverty mean that many New Mexicans struggle to access prescriptions as basic as birth control. If you don't have health insurance to cover a doctor's visit or can't take time off from work to make an appointment, the barriers to accessing birth control and other preventive care can be nearly insurmountable.

New Mexico is only the fourth state in the country to give pharmacists the ability to prescribe birth control, after Oregon, California, and Colorado. The American College of Obstetrics and Gynecology has long recommended that oral contraceptives be available over the counter, and the practice has gained widespread acceptance in the medical community. With advocacy from the ACLU of New Mexico, Young Women United, and the New Mexico Pharmacists Association, the pharmacy, nursing, and medical boards in New Mexico approved the new rules governing prescriptive authority in New Mexico in June.

"Allowing trained pharmacists to prescribe and fill contraception is a huge win for our rural communities, which are most profoundly impacted by our state's healthcare and provider shortages," said Denicia Cadena, Policy Director at Young Women United. "This policy change will significantly impact the lives of real people currently navigating barriers to the care they need, including transportation and cost. As someone raised in rural New Mexico, I am proud to have worked alongside our partners making needed healthcare more accessible to families like mine."

Dale Tinker, the executive director of the New Mexico Pharmacists Association, told the Santa Fe New Mexican that they would begin offering the training that will allow the state's pharmacists to become certified, and that they expect the College of Pharmacy at the University of New Mexico to include the training for new pharmacists moving forward.

### Fighting Discrimination at Walgreens



Coincidentally, the other major move the ACLU of New Mexico made this summer to protect access to reproductive healthcare was also pharmacy related. You may recall that back in 2012, the ACLU of New Mexico represented a woman named Susanne Koestner who was denied birth control at a Walgreen's Pharmacy in Albuquerque. The pharmacist on duty at the time refused to fill her prescription explaining that "it's against my religious beliefs."

"I needed my medication immediately and couldn't wait until the next day," Koestner said. "I was forced to drive to a different part of town to get my prescription filled. Walgreens put the burden on me to find a pharmacist that had no personal objections to the medication my doctor prescribed me."



*PHOTO: Susanne Koestner*

Koestner contacted the ACLU of New Mexico, and our attorneys threatened to file a complaint against Walgreens unless it provided assurances that it would take steps to ensure that women received the appropriate care regardless of the individual beliefs of its employees. Walgreens eventually responded by providing assurances that it had developed policies and procedures to ensure that accommodations of individual employees' personal religious beliefs would not impose any burdens on the customer or come at the cost of women's healthcare.

They did not deliver.

Late last year, Jane\* walked into her local Walgreens pharmacy with three prescriptions to fill for her teenage daughter in preparation for an IUD insertion the following day. The pharmacist on duty filled the first two prescriptions, but told Jane she would have to get the third medication, misoprostol, at another location. When Jane asked for an explanation, the pharmacist on duty told her that, despite having the medication currently in stock, he refused to fill the prescription because of his "personal beliefs."

Angry and embarrassed, Jane asked to speak to a manager and confronted the pharmacist about the denial of service. As Jane explained to the Albuquerque Journal earlier this year:

"I told him he was discriminating against me. That he should be ashamed for judging us, that he didn't know my daughter's medical history or her complications or conversation with her doctor. That he didn't know what the medication was for. And he just looks at me and says, 'Oh, I have a pretty good idea.'"

Misoprostol is prescribed for a variety of uses and conditions. It can be used to soften a woman's cervix in preparation for IUD insertion, it can be used by both men and women to decrease bleeding in stomach ulcers, and when used in combination with mifepristone, it can be used to end a pregnancy. The pharmacist saw the name of the drug and, because the patient was a woman, made an automatic (and erroneous) judgement about what it was for and refused to fill it.

Unfortunately, Walgreens' policy under these circumstances is to turn women away and send them to a different pharmacy location. This is unacceptable, no matter how conveniently located the alternate pharmacy may be. Many women lack transportation, store hours may vary and pose barriers, and some communities lack nearby alternatives altogether. More importantly, women like Jane are forced to experience the real and lasting emotional impact of being denied a service and turned away because of their sex and related health needs.

Jane took her complaint to the Southwest Women's Law Center, who partnered with the ACLU of New Mexico to write another letter to Walgreen's demanding they address this persistent discrimination. After Walgreen's representatives failed to provide adequate assurances that they intended to address this problem, the ACLU of New Mexico filed official complaints with the New Mexico Human Rights Commission alleging that the denial of service related to women's reproductive health is sex-based discrimination.

"Women should be able to walk into any pharmacy that serves the public with full confidence that they will receive the care and medicine they need without being disrespected and discriminated against," explained ACLU attorney Erin Armstrong.

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# Robby Heckman: Using Archaeology to Fight for Police Reform

By Paul Haidle



*“My experience as a juror [on the James Boyd case] appropriately dislodged me from my comfortable and privileged position in our community and compelled me to become involved...”*

Robby Heckman, like many ACLU volunteers, experienced something in his personal life that shook him to the core and drove him to action. Robby was selected as a juror in the trial of Keith Sandy and Dominique Perez for the shooting and killing of James Boyd, a man living on the literal and figurative margins of our community.

For Robby, the experience was incredibly challenging on an intellectual and emotional level. The trial laid bare the enormous threats that people suffering from mental illnesses or homelessness face when confronted by inadequately trained police and it left him feeling deeply unsettled.

“I strongly believe that an important measure of our society is how we treat our most vulnerable,” he said.

Robby is an archaeologist by trade and works for a cultural resource management firm in Albuquerque. He and his family moved here from Tucson in 2006, and they live in the Northeast Heights. Robby and his wife Susan have three children - Jay is at the University of New Mexico, Ryan is a senior at El Dorado High School, and their daughter Maggy is in 3rd grade.

Many people with commitments like Robby, to work, family, and church, would have quickly returned to their busy lives after the trial concluded. But that unsettled feeling kept gnawing at him and compelled him to act.

“I couldn’t stop thinking about the trial and all of the problems I saw with APD. So, I began to immerse myself in the police reform process, learning about the developments that have unfolded since APD entered into a consent decree with the Department of Justice in 2014.”

He eagerly read the Court Approved Settlement Agreement (CASA) and each of the subsequent reports filed by the Independent Monitoring Team. While he found the reports informative, they were hundreds of pages long, incredibly dense, and consisted entirely of narrative descriptions. Robby knew from his professional life managing large and complex archaeological data sets that there might be an alternative way to track and monitor APD’s compliance progress.

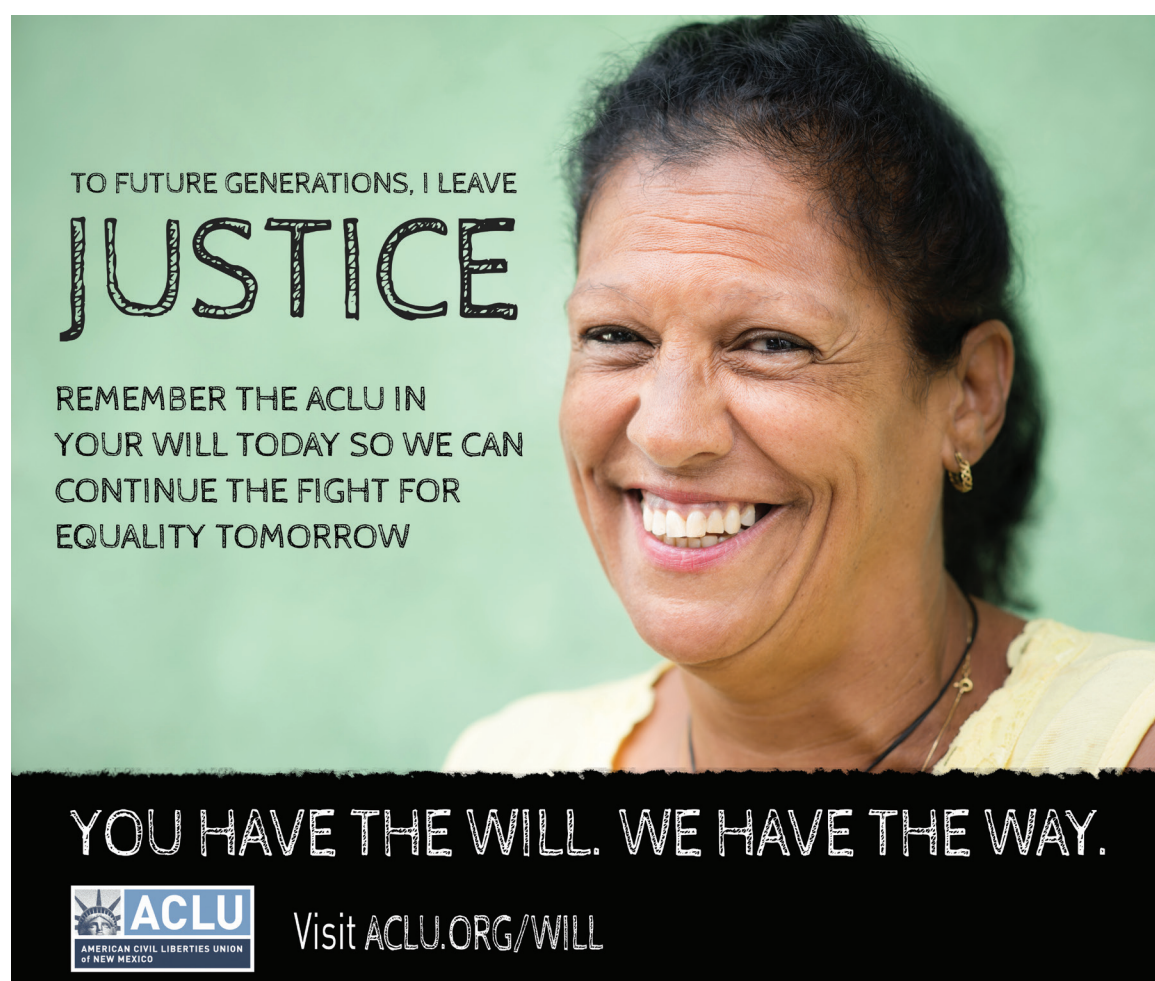
“By trade, I’m an archaeologist so I study human systems, how societies organize themselves, and how they address and resolve conflict. I believe every human institution is imperfect and flawed in some way and that institutions such as APD require checks and balances. So, I created a relational database that compiled all of the Monitoring Team’s reports, resulting in a single, cumulative data set to more easily facilitate tracking APD progress toward the reforms set out in the CASA. I wanted to make the results of the Monitor’s findings more easily digestible and accessible to the community to ensure accountability and transparency,” said Robby.

Once the database was complete, Robby wasn’t sure where to turn next – he was in possession of a powerful tool but unsure how to put it to work. Robby decided to share the database with his pastor Trey Hammond of La Mesa Presbyterian Church and he immediately recognized he was looking at something special. La Mesa Presbyterian is a member of the APD Forward coalition, a diverse group of people and organizations, including the ACLU of New Mexico, which work towards police reform. Trey knew APD Forward would be the perfect place for Robby to leverage his archaeological skill set unearthing hidden truths to advance the fight for police reform.

All of us have special talents, skills, and expertise that make us uniquely equipped to fight for justice in our communities. Like Robby, we just need to ask ourselves where we can plug in and put those talents and love to work.

APD Forward and the ACLU are fortunate to have volunteers like Robby and dozens of people just like him, who contribute hundreds of hours in passionate service to a cause they believe in. We are honored to work with him and so many other wonderful, smart, and committed individuals. If you’re not already connected with the ACLU of New Mexico’s volunteer program, we’d love to hear from you. We’re always looking for the next archaeologist, photographer, or tax accountant to help us fight for equal justice for all.


Find out more at [www.aclu-nm.org/act](http://www.aclu-nm.org/act).



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## NEW STAFF

**Katie Hoepfner,**  
*Lead Writer*



As Lead Writer, Katie Hoepfner serves as the ACLU of New Mexico's chief storyteller and content creator. Prior to joining the ACLU, Katie earned a Master of Arts in anthropology (ethnology) at the University of New Mexico, where she focused on the anthropology of law, security, and tourism. As part of her degree, she conducted original ethnographic field research in the capital city of Oaxaca, Mexico investigating the negative, and at times violent, social effects of placing tourism at the center of the state's economic development strategy.

Before graduate school, Katie worked for five years in New York City in the fields of digital media communications and video production, including documentary, cable, and web story production. A passionate believer in the tremendous power of writing to promote social justice, Katie is dedicated to protecting and advancing civil rights and liberties in New Mexico by sharing the stories of those whose rights have come under attack and by critically assessing public policies and practices that violate such rights.

**Jorge Rodriguez,**  
*Equity and Inclusion  
Coordinator*



Jorge Rodriguez joined the ACLU-NM Regional Center for Border Rights on June 2017 as the Equity and Inclusion Coordinator. Jorge is originally from Salem, New Mexico, and has an undergraduate and master's degree from New Mexico State University, writing his thesis on "Interior border crossing experiences of young Mexican-Americans in the Southwest border region and the influence on border identity." After completing

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## Frontline Pharmacy

*Continued from page 1*

"Birth control and other medications related to reproductive health are a vital part of healthcare for women. Walgreens can work to accommodate the personal beliefs of its employees, but they must not do so by permitting discriminatory denials of care that burden their patients and customers."

There's an old saying about freedom that goes, "My right to swing my fist ends where your nose begins." Everyone is entitled to their own personal religious beliefs; no idea is more fundamentally American than that. But employees' beliefs do not permit businesses to discriminate against or harm others. Open for business means open to everyone.

### Your Rights in the Real World

While the ACLU is best known for defending the lofty principles enshrined in the Constitution, we are equally dedicated to ensuring that those principles actually mean something where

*\* For the privacy of our client and her daughter, we have referred to her by the pseudonym "Jane" in this article.*

the rubber meets the road. Nowhere is this more important than in the realm of reproductive rights. *Roe v. Wade* established that women have a constitutional right to abortion more than 40 years ago, but anti-abortion activists have been erecting barrier after barrier to accessing that right ever since. In some states, those barriers make accessing abortion nearly impossible for a majority of women.

New Mexico is fortunate in that we have successfully blocked these types of abortion restrictions from becoming law in our state, but that doesn't mean there aren't a host of other barriers preventing women from fully accessing basic reproductive healthcare. It's not enough for reproductive healthcare to be legal, it has to be available, accessible, and affordable as well. By opening up prescriptive authority in New Mexico pharmacies and ensuring those pharmacies are not allowed to discriminate, the ACLU of New Mexico and its partners made huge strides this summer in the struggle to ensure that our rights are fully realized out in the real world.

## Is Law Enforcement Sweeping Up Your Private Cellphone Data?

By Katie Hoepfner



In 2014, the U.S. Marshals raided the Sarasota Police Department before the break of dawn. Their mission: to steal police records that were slated to be turned over to the ACLU of Florida in just a few short hours. These records, which were requested by the ACLU under Florida public records law, contained information about the department's use of Stingrays, controversial cellphone surveillance devices so shrouded in secrecy that the federal government would rather raid a police department than risk the public knowing the details of their use.

Stingrays, also known as "cell site simulators" or "IMSI catchers," work by mimicking cellphone towers and tricking phones within range into transmitting their locations and identifying information. Though it's unknown if law enforcement uses the full range of Stingray technology capabilities, the Department of Justice's Electronic Surveillance Manual indicates that the devices are also able to retrieve cellphone browser activity, SMS text messages, and the content of phone calls.

And it's not just criminal suspects' information that's being swept up. Stingray devices force all mobile phones in the area to connect to them, collecting the cellular data of countless unsuspecting bystanders.

You could be the victim of Stingray surveillance at any time, and you'd likely never know. The only indications that your phone may be connecting to a Stingray device might be small glitches, like a dropped call, downgrade in connection level, or a change in the time on your phone.

Given the personal nature of the communications, images, and data stored on the average American's phone, the indiscriminate and invasive nature of these powerful snooping devices is deeply troubling.

Their use presents significant concerns about Fourth Amendment protections, which prohibit law enforcement from searching an individual's person, house, or effects without first obtaining a warrant based on probable cause.

Across the country, police have been circumventing the Fourth Amendment warrant requirement by instead obtaining simple pen register or trap-and-trace orders. These orders permit officers to use technology that can access the phone numbers

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of incoming and outgoing calls, rather than the contents of communications or precise locations of cellphones, and should therefore never apply to Stingray technology. Law enforcement, however, uses vague language and omits mention of “cell-site simulators” or of their capabilities, including their ability to access the contents of innocent bystanders’ cellphones, in their requests to judges.

When evidence obtained by Stingray technology makes its way into the courts, the cycle of secrecy continues. Defense attorneys nationwide report instances of prosecutors dropping cases or offering plea bargains, even to people suspected of violent crimes, when questions about the source of police evidence might lead to an admission of Stingray use.

While not always as extreme as the Sarasota incident, law enforcement also continually stonewalls requests for Stingray technology information outside of the courtroom.

And it’s happening right here in New Mexico.

In May, the ACLU of New Mexico filed a public records request with the City of Albuquerque to determine if the Albuquerque Police Department uses Stingrays and what procedures govern their use. Citing the “law enforcement exemption” in IPRA law—a common stonewalling tactic—APD denied our request.

So, we sued. The only way to lift the veil of secrecy surrounding the use of these powerful surveillance devices is to demand transparency.

It is unclear to us where and how often the government deploys these devices, what rules govern their use, and how long Stingray data is stored because a matrix of non-disclosure agreements between the largest manufacturer of Stingray technology, the Harris Corporation, federal agencies, and local law enforcement, keep the use of these devices shrouded in secrecy. These agreements are what prevent local law enforcement from disclosing ownership and use of the technology to the public and to the courts.

What is clear, however, is the lack of transparency around these powerful devices opens the door to widespread abuse of law enforcement power at the state and federal levels and at the expense of American citizens.

We know these devices are used in at least 24 states and the District of Columbia, as well as by 13 federal agencies, including Immigration and Customs Enforcement.

Three months ago, the Detroit News obtained an unsealed federal search warrant affidavit signed by a judge, permitting agents to use Stingray technology to track down an undocumented immigrant from El Salvador suspected of unlawful reentry into the country. Although the ACLU has known for some time that ICE possessed the technology, this was the first known incident of the agency using it in a specific immigration enforcement operation.

Unrestrained Stingray use by federal and local law enforcement agencies pose significant threats to our communities. The government must be transparent about the use of these powerful tools and put regulations in place to protect people’s Fourth Amendment rights and prevent abuse.

Recently, the ACLU of Florida won an important victory in its long-term battle to secure public records seized by the U.S. Marshals Service in Sarasota back in 2014 when the 11th Circuit Court of Appeals ruled in its favor. While this case is still not fully resolved, it shows that determined privacy rights advocates like the ACLU are beginning to chip away at the walls our government has erected around its domestic surveillance programs. No one should have to worry that police are sifting through their data without a warrant, and we won’t stop until fighting until your digital privacy is secured.

*New Staff Continued...*

graduate school, he visited Palestine-Israel, as a delegate participant with Interfaith Peace-Builders. The privileged experience expanded his knowledge on the transnational intersections and comparisons – politically, militarily and economically between the U.S. and Israel-Palestine.

His passion for border and immigrant justice stems from his background and lived experiences as an agricultural laborer. He is particularly interested in liberating marginalized populations through community empowerment and grassroots organizing. On his spare time, Jorge enjoys family time, boxing, and exercising.

**Maggie Sandoval,  
Organizer**



Maggie Oelsner Sandoval joined the ACLU of New Mexico as a Field Organizer in June of 2017. Prior to joining the ACLU of New Mexico, Maggie held various positions in electoral politics as well state, city, and county government.

She was born and raised in Albuquerque and attended college at Drake University in Des Moines, Iowa. After graduating in 2015 with her BA in political science and environmental policy and a BS in environmental science, Maggie moved back to New Mexico to pursue a career in politics.

## How One Survivor is Helping to Heal Society’s Wounds

By Katie Hoepfner

**Y**ear after year the cycle of violence continues. According to the New Mexico Interpersonal Violence Data Central Repository, a staggering 17,757 domestic violence cases were reported to law enforcement in 2015, and a report from the same year by the Violence Policy Center found that our state had the third highest rate of female homicides by male offenders in the nation. These sobering statistics do not even capture the countless additional incidents that go unreported each year. We must put an end to the domestic violence crises that deprives victims of their fundamental ability to live with dignity, but the solutions currently in place are not working.

The United States is addicted to punishment. Despite lip service to concepts like ‘rehabilitation’ and ‘correction,’ when you scratch the surface our criminal justice system is really just a machine for the administration of punishment. Insert a crime, the machine spits out a prison sentence. We’ve fallen prey to the insidious idea that if we can only punish harshly enough, people will stop hurting others. But if our criminal justice system only punishes the symptoms without ever tackling root causes of the problem, our communities will never be any safer.



**Tanya Romero, Residential Services Director  
for Casa Esperanza**

The ACLU of New Mexico believes that our communities will be safer in the long run if we stop using outdated and ineffective tactics like mass incarceration, and move towards a more holistic, evidence based, and community-centered approach to fighting crime. That’s why we are working with a new coalition we helped launch last year called New Mexico SAFE, which is dedicated to reforming our criminal justice system so that it addresses the root causes of crime and violence. An important part of that work is partnering with formerly incarcerated people and survivors of violence to learn more about how we can provide lasting justice to those who are hurt by crime, as well as get offenders the treatment and rehabilitative services they need to break out of their destructive behavioral patterns.

We sat down with Tanya Romero who is Residential Shelter Services Director at Esperanza Shelter for Battered Families, to hear about her first-hand experiences with domestic violence as well as her thoughts on how we can make lasting transformative change.

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## 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 article submissions to Micah McCoy, Editor and Communications Director at: [mmccoy@aclu-nm.org](mailto:mmccoy@aclu-nm.org)

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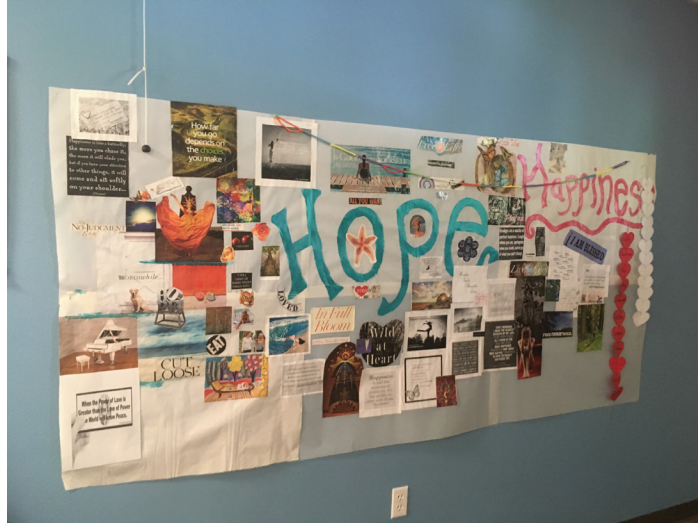
**FRONT PAGE: *Lives in the Balance*** written by Katie Hoepfner, ***Front-line Pharmacy*** written by Micah McCoy

## Legislative Overview

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### **Can you tell me about your personal experience with domestic violence?**

The abuse started roughly about eight years ago. I've been married twice in my life. My second husband was my offender. After my first marriage of fifteen years ended, I reconnected with my eventual offender who I knew from high school. We reconnected on social media and at that point I was still vulnerable and new to being out of my marriage.



I started to see signs like him asking, "Why are you wearing that?" "Why are you trying to bring attention to yourself?" "How come you visit your family so often?" "Don't you love me?" And I took him as, "My gosh. This guy is really into me. He's really protective of me." And I'd never had that type of affection to that extreme. Then about four months into the relationship he said either I marry him or he would leave me. And at this point I had totally fallen for him so I said, "ok I'll go ahead and marry you." That's when the violence started to escalate. The physical violence started. The threats started. My children were impacted by that as well, as far as being emotionally, verbally - and in the case of my youngest child - physically abused.

Knowing that I wasn't ready to leave the relationship, I stayed with my offender and I put my daughters in care of my mother and my son with his father. It was probably the hardest thing I've ever had to do, but I knew they weren't safe. I continued to stay in the relationship for another three and a half years. He had me right where he wanted. No kids, no friends. My job was suffering. I got a restraining order and then I would break that restraining order.

Then one day he physically assaulted me with a weapon. I managed to escape, go to a public location and call the police. It was the first time I'd ever called the police to report the violence. They asked, "do you have a safe place to go?" and I didn't. By this time I'd burned bridges with family and friends so the police said, "well how about Esperanza shelter?"

So I stayed in the shelter and it was really tough. I was scared, but I knew I had to be there to be safe. Esperanza is where I found my sisterhood among other survivors.

My offender is no longer here due to an overdose. He was an addict. There were also behavioral and mental health issues at play. They added fuel to the fire.

Is it how I wanted it to end? Absolutely not. I wanted him to get the help that he needed.

### **How did you end up working as an advocate for domestic violence survivors?**

I worked on myself for two years after my offender passed away. After that, I got started volunteering at a crisis treatment center taking calls from sexual assault and domestic violence victims, and then I began my career in Rio Rancho working at a shelter. Now I'm here at Esperanza. It's been about a total of almost eight years.

### **What are the stigmas around domestic violence?**

There's always the stigma that it's your fault. Why didn't you leave? Why did you stay? That's probably the most common, and it's so unfair. People have no idea what it takes for someone to share their story. Education is key. I teach in schools, and it's powerful how education can prepare others to be safe and raise awareness about what domestic violence is. It needs to start at a young age because that's where kids often learn the pattern because they see a parent being violent.

### **What do you think some of the leading causes of domestic violence are?**

Lack of resources and lack of jobs are some of the causes I see. It's also generational, it's historical violence and it has to start somewhere. I have compassion for that, and many people don't understand why I would have compassion for that after what I've been through. I've taken a lot of initiative to educate myself. Domestic violence is a learned pattern, a learned behavior. These individuals are not born as evil or as monsters, it's because they themselves have been hurt. How do we start to fix the cycle of violence?

### **You have an offenders program aimed helping those who have abused others to change their lives. Why is it important to offer that program rather enhancing the punitive measures already in place?**

I feel putting more punitive measures in place would do more harm than good. These are quick solutions that don't really focus on the individuals who need the help. After long-term incarceration, offenders come out even more violent. There's no follow up within the legal system as to what programs are they going to for rehabilitation and recovery. Where are the programs after incarceration for offenders? We release them back to society without the tools that they need.

### **What are the barriers that undocumented immigrants are facing with domestic violence?**

It's the fear of being taken. It's the fear of families being broken apart. We are a sanctuary city in Santa Fe so it feels safer for many to reach out here. But immigrants are still afraid. When you're undocumented, that's part of the cycle of abuse because offenders use their victims' immigration status against them or threaten to report them or take away the kids. With our current administration it's really scary.



### **How can we break the cycle of violence?**

When it comes to court hearings, it would be beneficial to make it a state law to mandate offenders to the batter intervention program (BIP) and there should be oversight to ensure that offenders are actually attending the program. We're here to help break the cycle, and that involves offenders. It doesn't exclude them. The BIP program that we have here has been going strong for a number of years and we've seen positive results from that. I'm very proud to work for an agency that supports that because not many agencies are like that in this field.

I also feel that it would help if there was more support from the state with addiction and mental health issues in the community. We need more laws that support both victims and offenders and my vision of that involves more resources and education in the community.