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THE TORCH

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LEADING JUSTICE FORWARD
Our most ambitious legislative session yet

By Katie Hoepfner



Each year, when lawmakers, lobbyists, and advocates pour into the halls of the Roundhouse for legislative session, ACLU of New Mexico staff are poised and ready to fight tooth and nail to pass legislation that will better the lives of New Mexicans. This year, the threat of Covid-19 kept the Capitol doors closed to us and the public, but we headed into the virtual session with equal resolve and our most ambitious agenda yet.

As our country witnessed sustained attacks on our rights and liberties, we crafted a legislative agenda that would help position New Mexico as a place where fairness, justice, and equality can prevail. To do this, we

doubled down on efforts to pass critical legislation that failed in previous sessions and identified new progressive bills to support. These bills spanned three key strategic areas of work: reproductive freedom, criminal legal reform, and immigrant rights.

The road to reproductive freedom

The ACLU of New Mexico, in coordination with our partners in the Respect New Mexico Women Coalition, had been trying to pass legislation that would remove

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Wrongly Accused

How sloppy police work put an innocent woman behind bars

By Katie Hoepfner

When Gisell Estrada opened a letter from a defense firm in the fall of 2019 notifying her of a felony warrant for her arrest, she thought it was a prank. The then 17-year-old Albuquerque High School student had never been in trouble with the police and spent most of her time outside of school at home with her mom, dad, and brother. But what first seemed like a cruel joke soon turned into a nightmare for Gisell and her family.

On November 3, Gisell's mom spoke with the receptionist from the defense firm that sent the letter and was stunned to discover Gisell was accused of armed robbery and first-degree murder. She was determined to do everything in her power to defend her daughter, but she couldn't afford the steep costs of the private firm. So, she turned to the Law Offices of the Public Defender to secure representation. Gisell's attorneys quickly discovered the allegations against her were filed under seal, preventing them from learning any details about what she was accused of doing.

Gisell stood to be arrested for a crime she didn't commit without any information on how police even determined she was the perpetrator.

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Photo: Gisell Estrada

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Leading Justice Forward

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an old abortion ban from 1969 since 2017. And with good reason. During his four-year tenure, President Trump waged war on reproductive freedom and health, nominating Supreme Court justices who threaten *Roe v. Wade*, issuing rules to allow employers to deny contraceptive coverage based on religious objections, and blocking young immigrant women from accessing abortion care. At the same time, states ramped up their efforts to curtail reproductive freedom. In 2019 alone, 8 states passed bans on abortion from the earliest days of pregnancy.

The American people voted Trump out, but threats to reproductive freedom didn’t end with his administration. In the first months of 2021, states introduced nearly 400 measures to restrict access to abortion in an effort to push abortion further out of reach and, ultimately, take the issue all the way to the Supreme Court in hopes of turning over *Roe*.

We knew we had to get New Mexico’s old abortion ban off the books so that if *Roe* were struck down, pregnant people and their families could make their own healthcare decisions without the threat of being forced to go before a panel of strangers to beg for care and potentially face a felony investigation or conviction. And healthcare providers could provide care without the same threat.

Though our efforts to remove the ban were unsuccessful in 2017, 2018, and 2019, we were undeterred. In 2019, we came closer than ever before to victory, falling short of a win by only three votes. Those legislators who voted against protecting healthcare were facing challengers in upcoming primary elections, and we believed New Mexicans wouldn’t take attacks on their freedom lightly. So, in May, we partnered with the national ACLU to launch a voter education campaign in key districts, informing communities about state senators’ records on protecting access to abortion. New Mexicans responded by voting out anti-abortion lawmakers and voting in lawmakers who vowed to protect pregnant people’s right to make their own healthcare decisions.

“The results of our public education campaign showed us what we always knew to be true — New Mexicans believe politicians should not get in the way of our reproductive health decisions,” said Ellie Rushforth, reproductive rights counsel at the ACLU of New Mexico. “Voters sent a clear message to lawmakers that they would lose the support of their constituents if they failed to uphold access to abortion care.”

State Representative Micaela Lara Cadena and state Senator Linda Lopez led the charge to introduce versions of the bill in the House and Senate. They were joined by Speaker of the New Mexico House Brian Egolf, Senate Majority Leader Peter Wirth, Reps. Joanne Ferrary, Georgene Louis, and Debbie Armstrong and 23 other state senators when it was introduced in the Senate.

With a legislature comprised of people willing to repeal this outdated law, and sponsors championing the legislation, we set our strategy into motion. Alongside our partners in the Respect New Mexico Women Coalition — an intersectional movement of women, families, faith leaders, medical providers, and Indigenous, Black, and Latinx reproductive justice leaders -- we mobilized our communities to ensure lawmakers would finally vote to protect reproductive freedom.

A broad range of New Mexicans answered our call and joined the cause. Birth workers, nurses, and doctors testified and wrote public comments supporting the bill and their associations endorsed repeal. Brave individuals shared the personal stories that led them to become advocates for reproductive freedom and justice. And thousands of people sent messages and made phone calls to legislators.

ACLU of New Mexico staff members, like Ellie Rushforth, who served as an expert witness on the bill, were right beside our allies, lending support in big and bold ways. We also launched a new and creative public project, partnering with renowned local artist, Jodie Her-

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Photo: Reproductive freedom mural painted by artist Jodie Herrera, which is approximately 75’x12’ and located on the west wall of Hot Yoga Downtown on Central Ave.

FROM THE DESK OF EXECUTIVE DIRECTOR PETER SIMONSON

Providing asylum to people fleeing persecution and violence is embedded in our nation’s laws and values. Different presidents have upheld this commitment to greater and lesser degrees, but our country has never strayed further from our vow to shelter refugees than it did under Donald Trump. During his presidency, Trump did everything in his power to dismantle protections for the world’s most vulnerable, in violation of U.S. and international law.

President Trump cruelly separated children as young as 9 months from their parents to deter families from seeking safe refuge. He forced more than 70,000 asylum seekers, most of whom were fleeing violence in Central America and Cuba, to wait in dangerous conditions in Mexico while their claims were being processed. He detained people indefinitely in horrid conditions and cruelly removed asylum protection for people fleeing gang and domestic violence. He even exploited a global pandemic to categorically ban people from seeking asylum by enacting a policy known as Title 42.

During his campaign, President Joe Biden promised to restore a fair and humane approach to asylum. And while he has taken some steps to do that, he has not done enough.

Earlier this year, the Biden administration elected to extend Title 42, allowing the summary expulsion of all unauthorized border crossers, including asylum seekers, and denying them any opportunity to make their case for staying in the country before an immigration judge. And while the administration has held off on expelling unaccompanied minors, reports of severe overcrowding in shelters and a lack of infrastructure in place for safely welcoming children are signs that they are already struggling to implement a truly fair and humane approach.

One thing is certain: the ACLU is prepared to hold the Biden administration to its promises. Knowing that the new administration would face enormous challenges in dismantling Trump’s brutal anti-immigrant regime, the four ACLU southwest border affiliates united with leaders in our New York and D.C. offices to organize a sustained campaign to repair the asylum process and bring greater accountability to U.S. Customs and Border Protection (CBP). Regarding asylum, our early demands of the administration are these:

- Rescind Trump’s anti-asylum policies/practices, including Title 42, the Remain-in-Mexico policy, and restore a fairer, more humane approach.
- Enable people excluded by Trump’s policies a renewed opportunity to seek protection, beginning with the prompt processing of people unlawfully subject to the Remain-in-Mexico policy.
- End CBP’s role in asylum processing by ending expedited removal or at minimum returning responsibility for Credible Fear Interviews to asylum officers.

We are also asking the administration to limit harms of



detention at the border by:

- Strictly limiting the duration of CBP detention to the minimum time necessary for processing, followed by the immediate release of migrants to their networks of care in the US.
- Ensuring humane conditions for anyone detained.
- Expanding alternatives to detention, allowing migrants to await their asylum hearings in the community.

It’s worth remembering that our commitment to granting asylum to people fleeing persecution and violence was born out of a shameful past – our government’s failure to shelter thousands of Jewish people fleeing state-sponsored persecution by the Nazi regime. The Biden administration is cut from a different cloth than the Trump administration. But officials shouldn’t make the mistake of claiming their hands are tied and then later hanging their heads in shame at sending thousands of people back to violence and death.

In the coming months, we will begin engaging ACLU supporters to join us in a campaign to ensure that the Biden administration does not ignore the sweeping changes necessary to restore a fair and humane process for migrant families to seek refuge in our country. We must stop seeing our commitment to asylum as a zero-sum game requiring us to sacrifice in order to live up to our ideals. By welcoming families fleeing persecution while also investing in neighboring countries, we can strengthen our own economy while charting our common future together.

Yours in Liberty,

[Handwritten signature of Peter Simonson]

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STAFF PICK

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



Gender Reveal Podcast

“My heart breaks seeing the callous and cynical attacks on trans people in state legislatures across the country. It’s more important than ever that we continue to share our truths in the face of such vitriol and hate. And we urgently need strong allies who will face this fight with us. If you have questions about trans people or simply want to hear our stories, Gender Reveal is a great launching point to become a fierce ally.”

- Raychel Sanner, Senior Digital Media Strategist.

Leading Justice Forward

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erra, on a mural in downtown Albuquerque intended to inspire respect for New Mexicans’ reproductive health decisions.

Our efforts leading up to and through the session paid off. In late February, the Senate version of the bill passed and was signed into law by Governor Michelle Lujan Grisham.

“This is a truly momentous victory for women and pregnant people in our state,” Rushforth said. “At a time when anti-abortion politicians continue to erode abortion rights across the country, New Mexico lawmakers voted to secure a future where all people in New Mexico have the right and ability to determine their own lives and seek the care that is right for them and their families without fear of punishment.”

With the abortion ban finally off the books, the ACLU of New Mexico will focus its efforts on expanding access to abortion care and making sure the full scope of reproductive health services and rights are equitably available to all.

Holding police and public officials accountable

In the summer of 2020, the police killings of George Floyd, Breonna Taylor, and Tony McDade reverberated across the nation. Millions of Americans, fed up with police violence against Black and Brown communities, and reeling from a global pandemic that has disproportionately taken the lives of people of color, participated in demonstrations over several weeks.

The ACLU of New Mexico has long worked to end police brutality in our communities in the streets, courts, and halls of Congress, and were ready to marshal every tool at our disposal to stamp out police abuse of power. When the governor called a special session in June of 2020, we set our eyes on passing a New Mexico Civil Rights Act. Although New Mexico’s state constitution offers robust protections, our state lacked a legal avenue for seeking redress for violations of those rights, and we knew that if we were ever to hold police officers and other public officials accountable for misconduct, we would need to create a legal mechanism for people to bring claims in court.

“Our rights were guarantees on paper, but not in fact,” said ACLU of New Mexico Executive Director Peter Simonson. “The United States Congress passed a civil rights act in 1871 for this very reason. We sought to breathe life into our cherished liberties and ensure people could actually exercise the rights promised to them under our state Bill of Rights.”

Much like the federal Civil Rights Act of 1871, which was passed to stop police officers from ignoring Klan lynchings against newly freed Black citizens, the need for a New Mexico Civil Rights Act was born of tragedy and racialized violence. Nearly 150 years after Congress passed a federal Civil Rights Act, Black people continue to face unjustified violence and brutality at the hands of police officers, with little, if any, accountability for their actions.

While we came up short of a Civil Rights Act in the special session, we did help pass a bill to form a New Mexico Civil Rights Commission, a bipartisan nine-member body tasked with evaluating and making recommendations about a cause of action for violations of state constitutional rights and reviewing the use of qualified immunity as a defense. In November, the commission voted to recommend passing a Civil Rights Act that would explicitly bar the defense of qualified immunity — a federal judicial doctrine, invented by the United States Supreme Court in the late 1960’s, that allows public officials who abuse their power to escape consequences so long as they did not violate “clearly established law.”

“HB 4 should serve as a model for other states fighting to stamp out abuse and make their communities more just places to live.”

-Barron Jones, ACLU of NM Senior Policy Strategist

By the time the 60-day session began in January 2021, when Speaker Brian Egolf, Rep. Georgene Louis, Senator Joseph Cervantes, and Rep. Patricia Roybal Caballero, introduced HB 4, we had already been educating and mobilizing communities about the need for the New Mexico Civil Rights Act.

We partnered with non-traditional allies, like Americans for Prosperity New Mexico, as well as local and national partners, such as Planned Parenthood New Mexico, Equality New Mexico, The National Police Accountability Project, and The Innocence Project to highlight the importance of passing the bill and to push back on an onslaught of opposition from police unions and counties.

When police unions claimed the bill would make their jobs impossible and county governments claimed, without evidence, that the bill would bankrupt them, we reminded legislators of the human costs that derive from a lack of access to justice. Though it was a difficult and heavy lift, thanks to the tireless works of advocates, the New Mexico Civil Rights bill was signed into law in April.

“The passage of HB 4 is an incredible triumph for the people of New Mexico, especially Black, Brown, Indigenous, and other marginalized people who are disproportionately harmed by police and other government employees, and who now have a fair chance at achieving justice,” said ACLU of New Mexico Senior Policy Strategist Barron Jones. “HB 4 should serve as a model for other states fighting to stamp out abuse and make their communities more just places to live.”

Advancing criminal legal reform

It’s no secret that our “justice system” often does not dispense justice. New Mexico’s prisons are filled with people who are incarcerated due to harsh policies that stem from the War on Drugs. And yet this war has done nothing to help people suffering from substance abuse. Instead, it has reigned terror on Black and Brown communities, who have been disproportionately arrested and locked up for drug possession, and fueled a system of mass incarceration. It has, in effect, been a war on people.

The ACLU has fought to implement decriminalization and legalization of cannabis laws across the country, helping to keep people who pose no danger to public safety out of the criminal legal system. Here in New Mexico, we’ve been working to legalize cannabis, alongside our partners in New Mexico SAFE, since 2019. This year, we supported a bill that not only legalized cannabis, but also included equity and restorative justice measures, including the automatic expungement of criminal records for people convicted of low-level offenses. Although the bill stalled during the regular session, Governor Lujan Grisham called a special session at the

2021 Legislative Session by the numbers

Over 4000 e-mails sent to legislators.

Over 1600 phone calls by ACLU supporters to legislators.

Over 2000 activists engaged in actions during the session.

end of March, when the bill was passed and signed into law.

“The War on Drugs has decimated our communities, while failing to make us any safer,” said Elaine Maestas, police accountability strategist at the ACLU of New Mexico. “Legalizing cannabis is a giant step forward in ending the over-policing of communities of color and the failed system of mass incarceration.”

Working to expand immigrant rights

In four years, Donald Trump did more to terrorize and tear apart immigrant families than any other president in our nation’s history. Heading into the session, one of our top priorities was to pass legislation that would prohibit policies and practices that harm immigrant families and allow them to live in safety and dignity.

Along with our partners at Somos un Pueblo Unidos, we have been advocating for a bill since 2020 to prohibit state agencies from sharing private, sensitive information with federal agencies like the Immigration and Customs Enforcement Agency (ICE) and the U.S. Census Bureau. Building on our work from last year, when we co-published a report revealing that state agencies have been disclosing New Mexicans’ sensitive personal information to federal agencies and highlighting the dangers of doing so, we successfully ushered this bill through both chambers. Unfortunately, the governor did not sign the bill by the deadline, and it was pocket vetoed. Given the bipartisan support this bill received, we are hopeful we can pass it in a future session.

We also supported a bill to ban private contractors from running detention facilities, including immigrant detention facilities in New Mexico. Along with a broad coalition of immigrants rights activists, People Over Private Prisons-New Mexico (POPPNM), we educated our communities about the abuse and neglect that takes place inside private facilities, garnered widespread media attention, and mobilized thousands of people to call and send messages to legislators. Although this bill stalled in the House, we built critical momentum that will help move us closer to passing it in subsequent sessions.

“We demonstrated to lawmakers and the governor that our communities are eager to move away from Trump-era policies that endanger immigrant families and shore up local protections in New Mexico,” said Nia Rucker, policy counsel and regional manager at the

ACLU of New Mexico. “Through our advocacy and communications work, we laid the foundation for continuing this crucial work in years to come.”

The ACLU of New Mexico will continue its work advancing immigrant rights outside of the session through our humane border campaign with ACLU border affiliates in California, Arizona, Texas, and our national organization.

The future we believe in

Many of our biggest victories this session were years in the making. When these bills stalled in prior sessions, we didn’t give up. We dug our heels in, expanded our partnerships, mobilized communities, and demonstrated to lawmakers that New Mexicans are unyielding in their determination to make our state a more fair, free, and just place to live. This session, we showed that when we work together, we win.

Together, we chose to hold police and public officials accountable to the people they serve. We chose to trust pregnant people to make the right healthcare decisions for them and their families. We passed legislation that will advance racial and economic justice and chip away at the failed War on Drugs. And while we didn’t get all of our bills over the finish line, one thing is for sure: We will not give up. We’ll be back, undeterred, and ready to lead justice forward in New Mexico.

Other bills we helped pass

HB 47 - The Elizabeth Whitefield End-of-Life Options Act allows terminally ill patients to compassionately end their own lives with the aid of a physician.

HB 29 / SB30 - The Crown Act prohibits race-based hair discrimination in the workplace and schools.

HB 183 - Removes certain fines for youth, including for possession of marijuana, as well as a non-refundable “application fee” for a public defender.



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“

I kept hoping that it was just a nightmare. I didn't understand why I had been arrested or what I'd done to deserve this kind of treatment. I missed my family and I was so upset I could barely eat or sleep.

”



PHOTO: After Gisell was released, as part of an art project, she covered a mirror with excerpts from newspaper articles written about her false arrest in the Albuquerque Journal. She glued shattered glass to the front of the mirror to show what the experience did to her life. Across the back of the mirror, she wrote: “Me han pasado muchas cosas, que jamas olvidare,” which translates to “I’ve had a lot of things happen to me that I’ll never forget.

Wrongly Accused

Continued from page 1

To avoid the possibility that police might show up at her home and arrest her violently in front of her family, she decided she would turn herself over willingly to Detective Jesse Carter, the police officer who filed the affidavit for her arrest warrant. The night before she planned to turn herself over, she lay awake with a knot of dread in the pit of stomach, trying to wrap her mind around going to jail.

“I had asked my attorneys how many days I would be incarcerated for and they said they didn’t know how many days because this type of situation can take forever to solve,” Gisell said. “I got really scared because I thought I was going to be there for the rest of my life.”

On November 8, Gisell’s attorneys accompanied her to meet Detective Carter outside the police station. He cuffed Gisell’s trembling hands in front of her, while she struggled to hold back tears. Within an hour, Gisell was booked into juvenile detention where she would stay for six brutal days.

Sloppy police work

How did an innocent young woman come to be arrested and jailed for murder?

It all started on July 10, 2019, when a young man named Calvin Kelly was murdered during a robbery in the early morning on a side street near his apartment

“The ordeal that Detective Carter, prosecutors, and jail guards put Gisell through was nothing short of horrific. Not only was Gisell terrified at the prospect of facing a life sentence for a crime she didn’t commit, but she was violated and humiliated repeatedly.”

-Zoila Alvarez Hernández, ACLU of NM Staff Attorney

complex. Detective Carter, who was assigned to investigate the homicide, met with a woman named Cynthia Salgado, who told him she was one of four people involved in a plot to rob Mr. Kelly. She told him that one of the co-conspirators was Alexis “Lexi” Barraza, who knew Mr. Kelly and whose role was to lure him outside. Ms. Salgado described Lexi as homeless and as having a lazy eye. An eyewitness also reported seeing a woman at the scene with shoulder length red-dyed hair.

Detective Carter searched for and found two Facebook accounts for Lexi, a possible Highland High School student according to one of her accounts, who, he noted, had red-dyed hair in some of her photos. He took two photos of Lexi from Facebook to Ms.Salgado, who confirmed she was the right person. At no point did Ms. Salgado link Gisell to the photos.

With photos of Lexi in hand, Detective Carter then headed to Albuquerque High — a completely different school than Lexi listed on her Facebook profile — to see if he could find her. He first showed the photos to a school resource officer who contacted a school administrator named Ashely Chavez. Chavez said she recognized the young woman as a student aide in the office, Gisell Estrada.

Gisell has never gone by the name Alexis Barraza, Lexi Barraza, or any other names the real person involved used. She also did not have red-dyed hair or a lazy eye



Photo: Gisell Estrada

and was not homeless. The only similarities that Gisell and Lexi have in common are that they are both Hispanic and female.

Nevertheless, based on a single-suspect Facebook photo identification conducted by an Albuquerque Public School administrator at the wrong school, Detective Carter concluded that Gisell committed the offense of first-degree murder, a capital felony, without ever even questioning her.

He then wrote up an affidavit for an arrest warrant, in which falsely stated that Ms. Salgado “positively identified” Gisell. He omitted how he actually identified Gisell — by taking photos of Lexi to Albuquerque High and sharing them with a school administrator.

“Detective Carter’s investigative work was not just sloppy, it was reckless and harmful,” said ACLU of New Mexico attorney Zoila Y. Alvarez Hernández. “He not only closed his eyes to exculpatory information and facts that would have demonstrated Gisell’s innocence, he also knowingly, or at best, carelessly omitted all information from the criminal complaint and affidavit for arrest warrant that would have explained how Gisell became a suspect in the investigation. He took an innocent young woman from her family’s loving arms and forced her to endure the worst week of her life.”

Six days in jail

On Friday November 8, Gisell should have been in school. She should have been able to eat lunch in the classroom of her favorite teacher, as she did on most days. Instead, she was booked into juvenile detention, where, upon arriving, she was forced to strip naked in front of guards, squat, and cough to ensure she wasn’t hiding drugs or other prohibited items.

To make matters worse, the District Attorney’s office, based on Detective Carter’s shoddy police work, successfully moved to detain Gisell pre-trial, keeping her from returning home to her family while her case proceeded.

“I kept hoping that it was just a nightmare,” Gisell said. “I didn’t understand why I had been arrested or what I’d done to deserve this kind of treatment. I missed my family and I was so upset I could barely eat or sleep.”

Each time Gisell’s parents visited her, guards subjected her to invasive strip searches. She looked forward to their visits, but dreaded the moment they would leave, when guards would swab and test her hands for drugs, tell her she didn’t pass the swab test, and then order her to take her clothes off. Gisell struggled to maintain hope that she would be able to clear her name.

“The ordeal that Detective Carter, prosecutors, and jail guards put Gisell through was nothing short of horrific,” said Alvarez Hernández. “Not only was Gisell terrified at the prospect of facing a life sentence for a crime she didn’t commit, but she was violated and humiliated repeatedly.”

After five days, On November 13, Gisell’s attorneys were able to provide a photograph of Gisell with her natural hair color, taken a day before the killing, as well as cell phone data to confirm that she was at home when the incident occurred to Detective Carter. That same day, Detective Carter met with one of the robbers, who told him, “You have the wrong Lexi. I just spoke to her yesterday.” Nevertheless, Gisell spent another night in detention.

Finally, after six brutal days in jail, Gisell was released without an apology. On November 19, when the real offender was located, all charges against her were dismissed.

Gisell’s fight for justice

Gisell’s struggle didn’t end when she left jail. In the aftermath of her release, she was burdened with questions from students and teachers about her arrest. Even though months have passed since the incident, Gisell still lays awake on many nights remembering the sinking feeling in her stomach that she’d never make it out to graduate high school. Other nights, she dreams about being forced to strip naked in front of guards.

The humiliation and trauma she experienced behind bars has left a lasting mark on her, but it has not stopped her from fighting back. In December 2020, ACLU of New Mexico, along with civil rights law firm Kennedy, Kennedy, & Ives, filed a lawsuit against the City of Albuquerque for falsely arresting, imprisoning, and depriving Gisell of her state constitutional rights.

“This was a deeply traumatic experience for both Gisell and her family, and they deserve justice for the great harm done to them,” said Alvarez Hernández . “We’re doing everything in our power to provide them a measure of peace and healing through this litigation.”

Gisell isn’t just fighting to achieve justice for her and her family. She’s fighting to prevent other innocent people from enduring the emotional suffering of wrongful incarceration and the lasting stigma associated with being accused of a horrific crime.

“I want to fight because they identified the wrong girl — because they kept me there for a week,” Gisell said. “I just hope this doesn’t happen to anyone else because it’s a terrifying and terrible memory that I’m going to have for the rest of my life.”

STAFF PICK !



The Happiness Lab Podcast

“Especially during these difficult times, working to be happy keeps me occupied, balanced, and motivated to do my ACLU work which I am incredibly grateful for.”

- Nadia Cabrera-Mazzeo, Staff Attorney

Elaine’s Journey: Life-altering loss and the fight for justice

An Interview with ACLU-NM Police Accountability Strategist Elaine Maestas

On July 22, 2019, Elaine Maestas’ life changed forever. Shortly after midnight, Bernalillo County Sheriff’s deputies fired 21 fatal shots at her sister, Elisha. Elaine’s family had called 911 seeking help for Elisha, who, in the midst of a mental health crisis, had entered her uncle’s home in Albuquerque’s South Valley where she was staying in her RV and hit him without provocation. The deputies who arrived on the scene did not help Elisha as her family had hoped. Instead, they escalated the situation by banging on the door, shining their flashlights through her windows, yelling commands, and brandishing weapons outside her RV. When Elisha, who had been experiencing hallucinations and was likely terrified, ran out of her RV, the deputies opened fire on and killed her.



Photo: Elaine Maestas, ACLU of New Mexico Police Accountability Strategist.

Ever since that day, Elaine has been fighting to prevent other New Mexicans from experiencing the tragedy and loss her and her family have suffered. Most recently, that fight propelled Elaine to join the ACLU of New Mexico as Police Accountability Strategist. We sat down with Elaine for a conversation on her journey from grieving sister to social justice advocate.

The Torch: What drove you to become an advocate for police accountability and reform?

Elaine Maestas: Before my sister was killed, I never

thought in a million years that this could happen to me or my family. It was something that I’d seen on the news and that I knew happened, but you never ever think it’s going to happen to you. And that was a huge wake-up call for me. If this happened to my sister and to us it can really happen to anybody. And it happens all the time. So, that’s how I started my journey — just asking questions like why and how did this happen? And what can I do?

Continued on page 8

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 Katie Hoepfner at: khoepfner@aclu-nm.org

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Comment on ACLU of New Mexico proposed bylaws changes

Use you mobile device’s QR code reader to access the public comment form for our proposed bylaws changes.



Elaine’s Journey

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TT: Can you tell us a little bit about your sister, Elisha?

EM: We lost our mother at an early age to a house fire. I was 14, Eisha was 11, and my brother was six. After, my father got really depressed and started drinking and he ended up getting cirrhosis of the liver. My sister was going to school to become a medical technician during that time but she put everything on hold when my dad got sick. And she really became his caregiver. She gave up a lot of her young adulthood to take care of my father and put a lot of her own personal goals on hold. So my father passed away in 2013 and my sister ended up getting a job as a phlebotomist and was working as a caregiver for my uncle. And that’s just how Elisha was. Someone who was very much a caregiver. She was just a very giving, selfless, loving person.

TT: When did Elisha start to experience mental health issues?

EM: In December of 2017 she was involved in a car accident and she got a CAT scan done because she hit her head on the windshield. It showed she had a growth in her skull plate. After discovering that, she went to see a neurosurgeon and found out that the growth was creating intracranial pressure and that began to get worse. So from December 2017 to June 2018 she was in and out of the doctor. In June of 2018, she had surgery to remove it. But in the weeks following, her symptoms began to increase. She started getting stroke-like symptoms where her face would droop, her speech would slur, she couldn’t open a door sometimes and she would get frustrated. Elisha’s mental health issues started to peak in 2018 in the middle of the year and from there it was a rapid decline. Elisha was really afraid. She started hallucinating.

TT: You and your family had called the police for help for Elisha before July 22 so officers were aware that Elisha had these struggles. But instead of helping her, they escalated the situation. Can you say a little bit about that?

EM: Yes. There’s one deputy in particular that made things worse and I truly believe that if he was not there that night my sister might still be here. He told Elisha to “act like an adult” at one point. He went to his car at another point and got a bean bag shotgun and popped it at the door and was banging on the door. I am blown away by the level of unprofessionalism and brutality they displayed and the complete disregard for my sister’s life.

TT: In the aftermath of the tragedy that you and your family experienced, what did you start doing to enact change?

EM: At first I was very much overtaken by grief so I started interviewing at every chance that I had to make it known that this was wrong and that the sheriff’s deputies made it happen. That police needed to wear lapel cameras. We didn’t have a completely clear understanding of what happened to my sister because BCSO deputies, at the time, did not wear body cameras. And in fact, Sheriff Manny Gonzales steadfastly refused to adopt them for his department.

While I was in the process of doing that I met a reporter that told me that I should go to the ACLU and to ask for Peter Simonson. About a week and a half after I went to the ACLU and I met with Peter and I just cried and let my heart out telling him everything that my family just went through.

TT: What came next?

EM: After that meeting with Peter, I partnered with the ACLU and other community members and my family and we just started going to the commissioner meetings and letting them know that we needed lapel cameras and crisis intervention training. Three months after my sister passed away and after us consistently going to commissioner meetings, the county commissioners came up with a resolution allocating starter funds for lapel cameras, but Manny Gonzales refused to adopt them. I knew at that moment that I needed to start fighting on a state-wide level, so I started emailing every legislator that I could, the governor, and anybody that I thought would listen to me. I protested outside the Capitol during the special legislative session they held in the summer of 2020 and I protested a lot of other times too.

I was really just trying to raise awareness that we need body cameras on every single deputy and officer in our state. About a year later, a bill mandating body cameras on all police in the state was passed. So that was a huge victory for us, but the work isn’t done because there’s still so much wrong with policing in our state. More change is needed.

TT: What does the position of police accountability strategist mean to you?

EM: This position is honestly the best thing that has happened to me since my sister passed away. It gives me a chance to make the change that I’ve been fighting for in our community. I’m not just advocating for the kind of policing my sister deserved that night she was killed. I’m advocating for the change that each New Mexican deserves today. It has been proven for years and years now that we can’t leave it up to leadership to hold officers accountable for brutality and misconduct. We just can’t. We need to pass statewide laws that hold officers accountable and prevent brutality from happening to begin with.

Notice of changes to ACLU of New Mexico bylaws

At its meeting on May 22, 2021, the ACLU of New Mexico board of directors will vote on proposed changes to its organizational bylaws. These changes will reduce the size of the board Executive Committee and institute term limits for board officers. The board invites comments from the ACLU membership about these changes. If you would like to see the language changes or submit comments for the board to consider, please visit the ACLU-NM’s website at the following link. Thank you!

aclu-nm.org/2021bylaws