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THE TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

Vol. 56 | No. 2 | Summer 2021

MORE THAN JUST A GAME How we're protecting the rights of trans youth By Raychel Sanner

e first heard rumblings that a sinister and discriminatory resolution banning trans youth from playing sports would be considered by the Alamogordo Public School Board in the Spring. In response to a growing wave of anti-trans legislation across the country, the school board had planned to take up the resolution, which was written by a lawmaker who failed to pass a similar law during this past legislative session. Initial press critical of the resolution seemed to stall progress on it, but in June the Alamogordo Public School Board put the resolution on their calendar for consideration.

We know all too well that discriminatory policies like these only harm trans kids and their families by creating an environment that is hostile to their very existence. So, we sprang into action. Ahead of their next meeting, the ACLU of New Mexico sent a demand letter to the school board advising that the proposed policy would violate both state and federal law.

The United States Supreme Court held in 2020, in R.G. & G.R. Harris Funeral Homes, Inc., v. Equal Employment Opportunity Commission that discriminating against someone on the basis of their gender identity runs afoul of the provisions of Title VII of the Civil Rights Act. The federal government, as of March 2021, determined the reasoning of this opinion logically applies to other provisions of the Civil Rights Act, like Title IX, which applies to schools. Similarly, the New Mexico Human Rights Act (NMHRA) explicitly states that gender identity and sex are protected from discrimination in matters of employment, housing, credit, union membership, and at public accommodations, such as extracurricular activities.

"Trans children already face extreme hardships that stem from coordinated attacks on their very existence and the continued discrimination they face at almost

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By Katie Hoeppner

TABITHA'S STORY: A JOURNALIST FIGHTS BACK AFTER POLICE TRY TO SILENCE HER

hen Tabitha Clay heard former Deputy Jeremy Barnes over the police scanner calling an ambulance for a 15-year-old special needs student he just tased at Española Valley High School, she was immediately alarmed.

At the time, in early May 2019, Tabitha was a reporter for the Rio Grande Sun, covering Rio Arriba Sheriff's Office (RASO) activities and the courts. Tabitha wasted no time calling Sheriff Lujan, who she had a close professional relationship with, to inform him of the incident and tell him that she would need the reports. The sheriff agreed to grant her access, as was protocol at the time.

In late May, after she obtained lapel footage of the incident, she published her story. At first, nothing unusual happened. But after the incident made national news a couple of days later, sparking public outrage, everything started to change.

"The next day the sheriff said, 'Look what you caused,' Tabitha said. "And I told him, 'I didn't do this.' I didn't hire that deputy and I didn't put him in the school."

But Sheriff Lujan didn't see it that way. He quickly directed

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Photo: Tabitha Clay

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More than just a game

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every turn," said Ellie Rushforth, ACLU of New Mexico staff attorney. "Instead of attacking trans children's existence, the Board should have been focused on creating a safe, welcoming, and affirming environment for all of its students."

Barred from running

The real-world consequences of anti-trans policies are all too real for local Albuquerque resident, Jill Eaton Potts, and her family. Jill has four kids, two sons and two daughters.

At the age of three, Jill's youngest child, Millie, let her Mom know that she was really a girl. Jill wasn't phased or upset. She raised her children to feel free to play with whatever they wanted to play with and to wear whatever they wanted to wear.

"The older three siblings kind of gravitated to more stereotypical gender roles," said Potts. "Our youngest didn't and we were okay with that."

By the time Millie reached the age of six, she was still insistent on her gender identity. Jill took action, allowing Millie to live her life authentically. On their first trip out as a family with Millie as her true self, she twirled happily through

Target as her family shopped for new clothes.

"I took a little video of her twirling through Target and I sent it to my ex-husband saying, 'I'm pretty sure we have a little girl on our hands," Potts said. "I asked him, 'are you going to be okay?' And he replied, 'absolutely."

When Millie turned seven, a neighborhood Facebook page posted about a track club seeking new runners. Jill asked Millie if she wanted to join the club that her older siblings had also participated in and Millie said "yes." Jill called the organizer to explain the situation.

"She's seven but she is transgender," Jill said. "So the birth certificate is going to show male, but she needs to be with the girls team."

The organizer promised that she would talk to the head coach and that the coach would call Jill. That call never came. What did come was a surprise.

The organizer finally got back to Jill with conditions for Millie to participate in the running club. She told Jill that she would have to prove that Millie had been living and identifying as a girl for three years and that Millie was going to have to undergo testosterone blood checks every six weeks at Jill's expense.

Jill was taken aback at the requirements. "I said, 'Excuse me, her testosterone levels at seven are going to be the same as every kid on that team. Boy, girl, it doesn't matter. If you are going to stick a needle in my kid's arm, you are going to stick a needle in every kid's arm.' She didn't really like that."

Jill felt terrible and had to tell Millie that the track club wasn't going to work out and that they would have to

look for something else. So far, they haven't found another sports club that would allow Millie to run.

"These kids are not going away," Potts said. "It's more safe for them to be who they are. I bet you they may have had some trans kids on the team who have already changed their birth certificate and they would have never known."

No basis in science



Photo: Jill Eaton Potts

Though anti-trans lawmakers continually cite concerns about competitiveness as the reasoning behind bills that ban trans kids from playing sports, modern science does not support their arguments. These bills are not really about sports or about protecting female athletes, just like anti-trans restroom bills were never about restrooms. These bills are aimed at erasing and excluding trans people from participation in all aspects of public life.

The National Collegiate Athletic Association (NCAA) and the International Olympic Committee (IOC), which regulate hundreds of events every year to ensure competition fairness and equity, reocognize that transgender atheletes on horomone therapy have no competitive advantage over other athletes, and allow trans atheltes to participate in competitions.

Not only are attempts to ban trans women from sports discriminatory and harmful for trans athletes — they also pose harm to cisgender athletes, particularly cisgender women. Take Caster Semenya, for example. In 2019, Semenya, a cis gender Olympic track champion from South African, was ordered by the Court of Arbitration for Sports to take drugs to suppress her natural testosterone levels to compete in certain races because her testosterone levels were considered too high. There is currently no such test or standard for cis-men in sports.

Harmful attacks mount

Attacks against transgender people with the intent of shutting trans people out of public life are not new, but the pace of attacks has accelerated. This year, there have been more anti-trans bills filed and passed than in the last 10 years combined. These statewide efforts have been supported through a coordinated campaign led by anti-LGBTQ groups that have long worked to attack our communities.

"These kids are not new, but the pace of attacks has accelerated. This year, there have been more anti-trans bills filed and passed than in the last 10 years combined. These statewide efforts have been supported through a coordinated campaign led by anti-LGBTQ groups that have long worked to attack our communities.

New Mexico's neighbors have been especially aggressive in pursuing bills prohibiting transgender girls from playing school sports. Texas, Oklahoma, Arizona, Colorado and Utah all filed bills this year aimed at preventing trans kids from playing sports. Transgender activists and allies have managed to defeat each bill, but the fight is not over. After failing to push these bills over the finish line this past year, transphobic lawmakers in each state could take up the issue once again

next year.

going away. It's more

they are."

safe for them to be who

In the 2020 New Mexico legislative session, lawmakers filed two bills intended to discriminate against trans-

Continued on page 4

FROM THE DESK OF EXECUTIVE DIRECTOR PETER SIMONSON

n July 1, The New Mexico Civil Rights Act became law. Before this historic day, New Mexicans had no means of accessing the lofty freedoms contained in our state Bill of Rights. They were guarantees on paper, but not in fact.

ACLU of New Mexico staff poured their all into passing the New Mexico Civil Rights Act during the 2020 legislative session. I am proud that our efforts helped breathe life into our cherished liberties. I am also hopeful that, moving forward, fairness and equality will prevail in our state and that Black, Brown, Indigenous, and other marginalized people who are disproportionately harmed by police and other government actors, will now have a fair chance at achieving justice.

As I look forward, I can't help but also look back at the road it took to get here.

Opponents of the New Mexico Civil Rights Act tried to convince our communities that protecting people's rights would be too costly. That legal settlements and higher insurance rates would bankrupt local governments.

They offered no evidence to substantiate those claims. Six other states already have laws on the books that allow individuals to bring damages claims under their state bills of rights. None of them have seen the dire outcomes that groups like the Association of Counties, the Municipal League and the Albuquerque Police Officers' Association predicted for New Mexico.

But what if the law did promise higher costs? Should it matter? Should an inmate who is raped by a jail guard be denied the opportunity to seek compensatory damages under our state constitution simply to reduce costs for local governments? What about the mother whose son is senselessly shot and killed by police officers? How can one quantify the costs that people have paid because of the government's recklessness or indifference and weigh them against county insurance rates? Should money dictate what's just and what's not?

You might ask, why can't people in those circumstances simply sue under the federal Bill of Rights rather than rely on our state constitution? The answer is qualified immunity. In recent decades, the courts have developed a legal doctrine that requires civil rights plaintiffs to



prove that the facts of their claim perfectly mirror those in a previously-successful civil rights suit. This requirement of "clearly established law" has resulted in such absurd rulings that even cases in which judges acknowledged that a civil rights violation had taken place were thrown out on qualified immunity.

In Corbitt v. Vickers, for example, a court dismissed a civil rights lawsuit against a police officer who, while hunting a fugitive, ended up at the wrong house and forced six children to lie on the ground at gunpoint. The officer tried to shoot the family dog but accidentally hit a 10-year-old child lying face down, 18 inches away from the officer instead. The court threw the case out on qualified immunity because there was no prior case where an officer accidentally shot a child laying on the ground while the officer was aiming at a dog.

The New Mexico Civil Rights Act prohibits a qualified immunity defense. It will put an end to senseless rulings, like that of Corbitt v. Vickers, that have prevented people from achieving justice for too long.

Recently we organized a day-long seminar to teach New Mexico attorneys how to litigate under this new law. Over 100 lawyers attended. They know as we do that the New Mexico Civil Rights Act is a gamechanger for New Mexico. The people of our state have a new tool for justice and the ACLU is going to make sure it doesn't go unused.

Yours in Liberty,



Tabitha's story

Continued from page 1

his office to stop providing Tabitha with records, including dispatch reports, and to stop speaking with her.

On July 1, when Tabitha arrived at the scene of a fatal accident in Rio Arriba County to report on the incident, Barnes, the deputy who Tabitha reported on, yelled at her to stay outside the perimeter, threatened to arrest her, and called out for someone to get him some handcuffs. Fearing she would be arrested, Tabitha left.

On another occasion, in September, Tabitha returned to her apartment in Santa Fe County after a long day to find two Rio Arriba Sheriff's vehicles, one with former deputy Barnes, parked out front. The deputies were clearly out of their jurisdiction and drove off after Tabitha arrived.

"I pulled up and I knew immediately that one of them was the same one who tased the kid, and who had threatened to arrest me two months before," Tabitha said. "It was scary. It was really scary."

Two days later, after Tabitha published a story concerning the Rio Arriba County Sheriff's failure to do

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in-service training since 2011, deputies refused to allow her to enter the Rio Arriba County Court with equipment she regularly used as a member of the press. RASO deputies only let Tabitha enter with her camera after the bailiff for the court came down and spoke with them, explaining that, as a member of the press, she was permitted to bring her equipment into the courtroom. Deputies still refused to allow her to bring in her phone or her laptop.

"It became increasingly clear that the sheriff and deputies were actively trying to silence me," said Tabitha. "Their harassment didn't just prevent me from doing my job. I began to live in fear that they might actually harm me if I didn't stop reporting on the department."

A free press is critical to democracy

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Members of the press help keep government agencies and actors accountable to the people by serving as watchdogs and calling out abuse. The ACLU has vigorously defended freedom of the press for 100 years because we know that a healthy democracy depends on an informed citizenry.

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LEGAL (Continued)

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Equity Question:

In recent years, transgender issues have been in the spotlight in popular culture and in political debeate, especially as lawmakers work to pass anti-trans bills across the country.

How has your own awareness and thinking on transgender rights changed or evolved in the last few years? Have you had a personal experience that has shifted your own thinking and helped you to become a better ally to the trans community?

In 200 words or less, share your response with us at communications@aclunm.org for the chance to have it featured in our next newsletter.

Get in touch with the TGRCNM

The Transgender Resource Center of New Mexico offers trainings on transgender cultural fluency. All interested are encouraged to contact Adrien Lawyer at adrien@tgrcnm.org.

If you are interested in continued opportunities to help the trans community, visit the TGRCNM website and sign up for the mailing list at TGRC-NM.org.

More than just a game

Continued from page 2

gender people. One bill attempted to ban trans girls from school sports and another bill aimed to make it legal to use religion as an excuse to discriminate against LGBTQ+ people in healthcare. Together with allied organizations like Equality New Mexico and the Transgender Resource Center of New Mexico, we defeated both bills. Nevertheless, they underscored the importance of staying vigilant and ready to defeat transphobic laws here at home.

We cannot rest

After receiving our demand letter, the Alamogordo Public School Board quickly pulled the resolution seeking to ban trans girls from sports from their calendar. While they offered no comments as to why the resolution was pulled, it was a sigh of relief for trans people across the

"I think we have clear indications about what this type of legislation does to the mental health, stability and sense of belonging of trans and non-binary young people," said Adrien Lawyer, Co-Founder and Executive Director of the Transgender Resource Center of New Mexico (TGRCNM). "When civic leaders and elected representatives are debating about your inclusion, in some cases about the validity of your very existence, that really erodes your confidence and self-worth. It's not even about sports inclusion, per-se, although we also have great data on the benefits of sports participation for youth who are interested. It's really more about core acceptance and inclusion in the communities we live in."

Legal and legislative action are important arenas for protecting trans rights. But it will also take public education and committed allyship to root out the harmful myths underlying anti-trans policies.

We'll keep fighting to ensure that families like Jill Eaton Potts' don't have to worry about signing their kids up for a running club.

"Education is power, power is education. So whatever we can do to help educate people, and make it graceful and kind and not get mad at people who don't understand trans issues," said Potts. "My dream is that Millie can be whoever she wants to be, just like any parent of any kid. There's a lot of families that are like mine, and families who are going through this, there's so much support. You're not alone."

EVERYWHERE IS THE NEW LOCAL

An Interview with Rabbi Jeff and Mindy Glickman

By Davida Gallegos

abbi Jeffrey and his wife Mindy have long been com-L Umitted to giving back to their community. In the midst of a global pandemic, an ugly election, and an insurrection, that commitment only intensified. They set out to travel the United States in an RV they named Seymour to listen and learn and returned with a better understanding of the distinct needs of local communities. Along the way, they made generous donations to every ACLU affiliate in the U.S., including New Mexico. We spoke with them to learn more about what led them on this journey.

The Torch: For some time now, the two of you have been involved in philanthropy and humanitarian work. Can you talk



Photo: Rabbi Jeffrey and Mindy.

a little bit about how you started on this path?

Rabbi Jeffrey: It started with our parents and our role models when we were children. We're the disciples of some real community heroes. But this project started when a simple idea hit me kind of like a freight train. It was in the middle of the pandemic and, you know, there was horrible division, and there was so much pain. And this idea just came, and it was, things that happen far away, affect us locally.

I heard something on NPR from a guy that owned a restaurant. He said, "It's been a really bad year for us. But

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The ACLU of New Mexico fights every day – in the courts and in the streets – to protect freedom and ensure equality for every person in our state. This vital work depends on our community of monthly supporters.

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up your monthly donation.



MEDICATION DENIED

ACLU sues to keep woman on life-saving treatment behind bars

By Katie Hoeppner

got to that point where I didn't wake up thinking about using. I didn't go to bed thinking about using. I wasn't scared to wake up in the morning and be sick. I was actually okay."

When a doctor prescribed S.B.* Methadone two years ago, her life changed for the better. For the first time in twenty years, she was able to stop using heroin, a highly addictive opiod that kills thousands of Americans every year. Although S.B. grew up surrounded by drugs, and has suffered from the trauma of sexual abuse and incarceration, she began to imagine a stable future for herself.

Then, in the spring of 2020, while S.B. was participating in the Metropolitan Detention Center's (MDC) community corrections program and undergoing treatment for her addiction, she found out her mother, who lives in Colorado, contracted Covid-19. Concerned for her parents' health, she made the difficult decision to travel to see them, even though it violated the conditions of her probation.

After arriving, she visited a local methadone clinic and resumed treatment. Methadone helped her to stay off of heroin when, in the fall, S.B's worst fear came true: her father contracted Covid-19 and passed away.

"When my dad died, I didn't think I could handle that without using heroin," S.B. said. "But then I would have a thought about using, and wake up the next day and think, hey, where did that thought go? I never acted on it. This is amazing to me and would not be possible without my methadone."

Shortly after her dad passed away, S.B. suffered another blow. She was arrested for absconding from probation and taken to a Colorado jail, before she was ultimately sent back to New Mexico.

At her hearing, the judge sentenced S.B. to time in New Mexico Corrections Department custody, which does not allow the use of methadone, or any other medication treatment for opioid use disorder (OUD), except for pregnant people suffering from addiction.

S.B.'s criminal defense attorney successfully petitioned the judge to allow her to first go to MDC, which allows the use of methadone, so she could slowly withdraw prior to her transfer to NMCD. Though S.B. was relieved that she would have some time to taper off her medication, she was still terrified at the prospect of losing her lifeline.

Cycles of addiction and incarceration

Like millions of other Americans and thousands of oth-

ers in New Mexico, S.B. is diagnosed with severe opioid use disorder (OUD), a chronic relapsing brain disease. OUD, like diabetes or high blood pressure, requires medical intervention for years or even a lifetime.

Recognizing the severity of the disease and that medication for addiction treatment (MAT) is the standard of care, MDC has allowed people who enter the jail while on methadone to continue treatment since 2005. In 2017, the jail also began allowing people suffering from addiction who were not already on medication to enroll behind bars. In doing so, they hoped to reduce suffering, recidivism, and crime rates. Many other jails and corrections departments across the country have followed suit in an effort to end cycles of addiction and incarceration.

In refusing to treat OUD like any other chronic disease that requires care, NMCD subjects people to needless suffering. As S.B. dropped below a therapeutic dose while awaiting transfer to NMCD custody, she began to experience brutal withdrawal symptoms such as body pain, opioid cravings, loss of sleep, impulses for self harm, depression, and extreme anxiety about her ability to stay free from heroin use while incarcerated.

"Being forced to withdraw from methadone makes my depression and anxiety very bad," S.B. said. "I have a lot of family members who were my age who killed themselves either on purpose or accidentally overdosed. This scares me. I don't want to do that. I don't want to die in here or when I am released, but as my dose gets lower I have to remind myself of this."

NMCD's refusal to provide MAT, which is the well-recognized standard of care, also puts people at risk for relapse and reentry into prison. A 2018 report by the New Mexico Legislative Finance Committee found that one-half of the recidivism rate in New Mexico was attributed to parole revocations for technical violations related to drug use and about one-third of the people admitted to NMCD prisons were there as the result of failed drug tests and missed appointments.

"NMCD could help prevent people suffering from addiction from winding up back in custody by providing them medication that has been proven to effectively treat OUD," said ACLU of New Mexico staff attorney Lalita Moskowitz. "Instead, they needlessly subject people to suffering and jeopardize their chances of breaking the cycle of addiction and incarceration."

Once they leave prison, formerly incarcerated people are also at an increased risk for fatal overdose. A 2007 study published in the New England Journal of Medi-

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STAFF PICK



Lady Don't Take No

"Alicia Garza, co-founder of the Black Lives Matter movement, tackles tough conversations with humor and integrity on her Lady Don't Take No podcast. She hosts powerhouse guests in politics, art, activism and more like Dr. Phillip Atiba Goff, Dr. Connie Wun, and W. Mondale Robinson. She and her guests talk through systems of oppression that affect diverse communities with an excellent balance of empathy, wit and thoughtfulness."

- Davida Gallegos, Senior Communications Strategist 66

I would really like to see this lawsuit send a very strong message to police that you can't just go after people that are telling the truth. That's wrong.

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!BOARD NOTICE

If you desire to run for one of the six open positions on the ACLU-NM **Board of Directors in** 2021, please send to the **ACLU-NM Nominating** Committee a 250-word statement expressing your interest in and qualifications for serving on the Board. The ACLU-NM office must receive statements of interest by October 1. Nominees' names will be placed on the election ballot and their statements will be published on the ACLU-NM website. With the Board's approval, the Committee will send a slate of six recommended candidates to the membership for a te in March. Candidat who are not selected for the slate are eligible to place themselves on the ballot by obtaining a petition signed by 1% of the **ACLU-NM** membership (Roughly 9,000 members total), supporting their nomination, along with a 250-word statement of interest.

Tabitha's story

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Though the First Amendment guarantees a free and open press, maintaining it requires constant vigilant protection from local and federal government agencies, which work to keep many of their activities secret from the public.

In recent years, members of the press have faced increased threats and assault. During his presidency, Trump consistently demeaned the press, calling them "the enemy of the American people," "human scum," and "the fake news media." He also worked to undermine their credibility and deligimatize them at every turn. These attacks, coming from the highest office of government, created a hostile environment for journalists to work in. So hostile, in fact, that in 2019, Reporters Without Borders dropped the U.S. to No. 48 out of 180 on its annual World Press Freedom Index. The three-notch downgrade took the United States from a "satisfactory" place to work freely to a "problematic" one for journalists.

"If reporters are afraid they are

going to be retaliated against for

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munity. Residents depend on

a free press to find out about

government abuse and to call for

transparency and accountability."

In the summer of 2020, when protestors took to the streets to exercise their First Amendment rights in the aftermath of George Floyd's murder, Trump not only encouraged a violent response, he also mocked and endangered reporters covering the demonstrations. After an MSNBC reporter was shot with rubber bullets he referred to the attack as "a beautiful sight." He also sent federal law enforcement to places like Portland,

where they secretly surveilled and assaulted journalists covering the ongoing anti-racism protests. The ACLU of Oregon sued on behalf of multiple members of the media who were attacked with flash grenades, rubber bullets, and tear gas while covering the protests.

The ACLU of Minnesota filed a class-action lawsuit on behalf of journalists who were targeted and attacked by Minneapolis and Minnesota police while covering protests the same summer. The lawsuit's lead plaintiff, Jared Goyette, a journalist reporting on the demonstrations, was shot in the face with a rubber bullet.

In recent years, The Department of Homeland Security targeted journalists reporting on conditions at the U.S.-Mexico border on multiple separate occasions. Agents subjected reporters to secondary screenings, compelled

them to disclose information about their sources, and searched their photos and notes. A secret government database leaked to the public in March 2019 revealed that the five journalists were specifically targeted as part of a concerted government effort to surveil people working at the southern border. In response, the ACLU national office, ACLU of San Diego and Imperial Counties, and the New York Civil Liberties Union sued.

ACLU lawsuit

When Tabitha approached the ACLU of New Mexico for help in the fall of 2019, Legal Director Leon Howard was immediately concerned and interested in her case.

"Now more than ever, our country needs journalists who are brave enough to expose the truth and to cover stories that the American people deserve to know about," said Howard. "If reporters are afraid they are going to be retaliated against for doing their jobs, that poses a threat to everyone in the community. Residents depend on a free press to find out about government abuse and to call for transparency and accountability."

Tabitha's work is an example of the importance of journalism in holding public officials accountable. Her reporting on former deputy Barnes ultimately led to his terminiation with RASO and led the Attorney General's Office to investigate and charge him with child abuse and battery.

She's now also fighting for the public's right to information through her lawsuit with the ACLU of New Mexico. After looking into the harassment and retaliation Tabitha faced, the ACLU began to build a case, filing a Torts claim in October 2019. Then, in May 2021, the ACLU of New Mexico and Rothstein Donatelli

LLP filed a lawsuit in the First Judicial District Court against RASO, the Board of County Commissioners, Sheriff James D. Lujan, and former Deputy Jeremy Barnes, for retaliation and violation of Tabitha's First Amendment rights.

Tabitha has since moved to Colorado to care for her grandmother, but she is undeterred. She's still committed to reporting on stories that expose abuse of power and is hopeful that her lawsuit with the ACLU will bring change to the community she once lived in.

"I would really like to see this lawsuit send a very strong message to police that you can't just go after people that are telling the truth. That's wrong," Tabitha said. "The First Amendment is the first for a reason. It matters. And you don't just get to trample all over it and go home at the end of the day."

Medication Denied

Continued from page 3

cine found that during the two weeks following their release from prison, formerly incarcerated people are 12,900% as likely as non-incarcerated people to die of an overdose. A 2017 study published in Addiction found that, in contrast, people who receive MAT while incarcerated are 85% less likely to die of a drug overdose within a month of their release.

ACLU intervenes

In May, The ACLU of New Mexico and the Law Office of Ryan J. Villa intervened to prevent further threat to S.B.'s health and life, filing an emergency motion in a lawsuit to demand she be provided her prescribed medication for addiction treatment when transferred to NMCD. The lawsuit also asks the Court to find that NMCD's blanket ban on MAT is a violation of the American with Disabilities Act and the Eighth Amend-

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ment prohibition on cruel and unusual punishment.

"The Corrections Department's blanket refusal to provide MAT amounts to deliberate indifference to a serious medical need," said Moskowitz. "NMCD has a constitutional, legal, and moral duty to provide adequate medical care to our client."

Through her lawsuit, S.B. not only hopes that she will soon be able to resume a therapeutic dose of methadone, but that other people like her who are struggling to stay off drugs will be able to receive the treatment they need.

"They just want to lock people up and throw away the key," S.B. said. "Just like there are shots for Covid, there is medication for people with addiction. I think they're just as important and I don't understand how come they don't see it like that."

*Initials have been used to protect S.B.'s identity

A SECOND CHANCE AT LIFE

The fight to end juvenile life without parole in New Mexico

Photo: Shane Lasiter

out of prison.

enjoying his first meal

By Davida Gallegos

hane Lasiter is a 57-year-old man, who until recently, had been in prison since he was sixteen years old. He's only been a free man for two short months, but he's already busy volunteering as a mentor at La Plazita Institute encouraging young people to make healthy life decisions. He knows all too well how a lack of guidance can lead youth to make poor deci-

sions that have dire and lasting consequences.

Shane spent most of his formative years against a backdrop of family instability and transience. Between the ages of 10-16, Shane's family moved to five different states and he attended 12 different schools. He says turmoil entered his life around fifth grade.

"I became the kind of kid who would run away," said Shane. "The police were always looking for me."

Reflecting on the mistakes of his youth, Shane said, "I was kind of guided by what I thought my peers expected of me. I started hanging around not so good people, so I became a not so good person. And I got in trouble."

In 1981, when Shane was still just a child, he was sentenced to life in prison for his involvement in an armed robbery and killing of a local restaurant owner. Shane spent

the next forty years of his life behind bars. Though he did much to turn his life around — participating in several educational programs, training service dogs, and caring for fellow incarcerated people -- he also experienced serious trauma. The experience of coming of age in prison has marked him.

The problem with extreme youth sentencing

Shane's story is not unique. Despite extensive research that youth who commit serious offenses show promise for rehabilitation, the United States still subjects thousands of children to extreme sentences, such as life in prison. For most of these youth, the only real chance for release and to be reunited with their families comes from parole. However, people incarcerated since their youth are routinely denied parole, long after they've grown, matured and been rehabilitated, and in many cases, solely because of the crime they committed in their youth—not because of who they are now.

ACLU research has found that in 12 states alone, over 8,000 people are serving a sentence of life or 40 or more years for a crime committed under the age of 18.

The United States remains the only country in the world that allows children to be sentenced to life without parole. In the last decade, two U.S. Supreme Court rulings significantly restricted this practice, reasoning that children age out of criminal activity and have greater capacity for reform. In a recent decision, the U.S. The Supreme Court declined to extend these restrictions further, saying that it is up to the states to make the necessary policy decisions to protect children from extreme punishments. Many states

already have. Today, 25 states and D.C. ban life without parole for children. Many of these same states have created early review opportunities for those serving long adult sentences for crimes committed when they were children. New Mexico is behind in this trend.

New Mexico still has not banned the imposition of life

without parole on children, and many children are serving long adult sentences that deprive them of an opportunity for review at a developmentally appropriate time. There are nearly 100 people serving sentences longer than 10 years for crimes committed as children. Many are serving sentences that practically guarantee that they will spend the rest of their lives in prison. Many have already spent decades in prison for crimes committed when they were 15 and 16 years old.

Parole board rule change shows progress

Momentum for change is building. This year, the ACLU of New Mexico worked with the New Mexico Adult Parole Board to update their procedures for those serving life sentences for crimes committed when they were chil-

dren in accordance with new constitutional standards and the advances in adolescent brain science upon which those new standards are based.

The new rule, passed in March of 2021, provides for access to counsel during hearings and directs the board to focus on age at the time of the offense and growth, maturity, and rehabilitation since then.

Prior to the rule change, the Parole Board denied Shane's release five times. It didn't matter that he spent the vast majority of his years incarcerated atoning for his mistakes of the past.

"The first time I went in front of [the parole board] I didn't expect them to say yes because I've seen New Mexico at work for so long. I was hopeful but didn't really expect anything," said Shane. "But the second time, I did. I thought I had all my ducks in a line and I was ready."

Shane told the board all about the changes he'd made in the years since he was sentenced. He left hopeful. But ten days later he received another notice of denial. He didn't get an explanation about why he was denied or what he needed to work on to be granted parole.

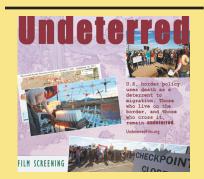
"For years, New Mexico's parole board had one of the lowest grant rates in the nation," said Denali Wilson, Legal Fellow at the ACLU of New Mexico. "For those serving sentences for crimes committed when they were children, these proceedings were categorically unconstitutional."

In the first hearing under the newly adopted rule, Shane was finally granted parole and released from prison after 40 years.

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STAFF PICK



Undeterred

"Undeterred is an incredibly moving documentary that chronicles community resistance to border militarization in the rural town of Arivaca, Arizona. New Mexicans living in the 100 mile border zone understand the struggles associated with living in a militarized area all too well. This film not only paints a gripping portrait of border life, but it also inspires hope for those interested in advocating for a more humane approach to immigration."

Katie Hoeppner,
 Communications Director

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 Hoeppner at: khoeppner@aclu-nm.org

Printed in Santa Fe, NM.

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A second chance at life

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While the rule change improves the process through which a child serving a life sentence is considered for parole once they are eligible, legislative action is needed to change the timing of eligibility for a parole hearing. Under existing law, a child serving a life sentence does not become eligible for parole until he or she is well into their 40s.

The path forward

Last legislative session, the ACLU of New Mexico supported a bill to abolish juvenile life without parole in New Mexico and create early eligibility for parole for those serving long adult sentences for crimes committed as children. Though the session ended before the bill was heard for a vote on the House floor, the ACLU

of New Mexico will continue to fight for fair and age appropriate sentencing reform in New Mexico.

"All children are capable and worthy of redemption," said Wilson. "We need legislation that provides a second chance to young people who have grown into different people, are committed to repairing the harm they caused, and are ready to safely rejoin society."

Shane is steadfast in his commitment to accounting for the mistakes of his youth and being the best person he can now that he is free. Yet, he was almost denied this opportunity. His story is a testament to why we must continue to create new policies that are grounded in science and humanity.

"I went through a lot of hardships and trauma and learned to grow and develop in [prison]," Shane said.

Everywhere is the new local

Continued from page 4

we're not looking for a tax break. We're not looking for a donation. All we want is customers."

I thought that was pretty deep. I thought, rather than be a donor, how can I be a customer of the things that I really liked, not just restaurants, but things that I think are important for America.

Mindy: So, in January, to connect and reach out to places that are far away from where we were, we took an RV across the country, and we made our stops match up with ACLU affiliates and United Way branches.

Rabbi Jeffrey: We went back to the southern tip of Texas and the Mexico border to meet with the people that run the homeless shelters, the Boys and Girls Club, Salvation Army, and crisis centers and soup kitchens that serve thousands of immigrants. And we asked them, "what are some words you'd use to describe immigrants?" They were very different words than what we had heard over and over again in the news.

The Torch: What are the values that encourage you both to do this work?

Rabbi Jeffrey: They say "love the stranger", but they don't say where the stranger lives. There's nothing that's repeated more in the books of the bible, we call Torah, than, "love the stranger." Welcome the stranger into your home. 38 times. It's as though that's the biggest and most important thing in all of the Bible.

Mindy: So, one of the central prayers of Judaism is the Shema, which means "listen." And in the paragraph that comes after it starts with the word "love." And so in order to love you have to hear first. In order to love something, you need to know it. So, we went out to know, to learn, to see, to expand our circles of awareness.

The Torch: What specifically is it about the AC-LU's mission that encouraged you to give to our organization?

Rabbi Jeffrey: We started donating to every single United Way. We gave to thousands of libraries in the United States and joined many synagogues.

And it was my son that said, if you're going to give to United Way, you should also give to the ACLU. So, we set out to do that, to include you guys as well. We were already members and we wanted to support people who are doing great stuff, like the ACLU.

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When we sent our donations, we included a note saying something like "what you're doing is really heroic and we want to partner with you." When affiliates responded to our note, we gave them an even larger donation.

Your clients are people that need to have their voices heard and whose rights are trampled on. People that don't have anyone else to stand up for them on their behalf. But the other part of your clients are the people who want to give.

You are doing miraculous things for the people whose name is on the bottom of that check. They are your clientele every bit as much as the others. You are helping them to be the people that they are intended to be.

The Torch: Rather than just giving to the national ACLU, you also donated to local affiliates. Can you talk about your decision to do so and what it means to give at the local level?

Rabbi Jeffrey: When you give locally, amazing things happen.

I have this idea that is almost guaranteed to make your day a better day. You pick a place in the United States you've never been to and call up the people who are doing the work and you say, "Hi, I've never been to where you're at, and I might never get there. But what you're doing is really important to me." You learn about what they're working on, and you make a donation to help them do better.

I can't think of anything that better bridges the divides in our country. It's as easy as that.

The Torch: You actually came to New Mexico as part of a larger listening tour you did across the country. What was your experience in New Mexico like?

Mindy: Yes, we did. Well, it was lovely but cold! We were in Albuquerque in January, with a wind freezing snowstorm. Then we visited Santa Fe. It was right after the insurrection and the Capital was boarded up. There were police everywhere. It was an interesting time to be there.

The Torch: Anything else you want to share?

Rabbi Jeffrey: I think there's a lot more caring in America than people realize. I think that people who are downtrodden are so ostracized. There's so much fear. And people that just don't care to look, and don't care to listen. It's detrimental to America. If some of these incredible stories got out, of people helping others, and if people were to put themselves in other people's shoes, I think America would be a much better country.