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CARE OVER CONFRONTATION: COMMUNITY SAFETY BEYOND POLICING

By Daniel Williams, Policing Policy Advocate

As a born and raised New Mexican, I am sometimes obnoxiously proud of my home state. Any chance I get, I will gush to my friends from other parts of the country about what makes our state special. I'll look for opportunities to drop into conversation that New Mexico is the only state in the country to have more than two UNESCO World Heritage Sites, or that we have the second-highest number of days of sunshine in a year, or that Santa Fe is the nation's oldest state capital.



Photo: Daniel Williams

Unfortunately, alongside these fun and special distinctions is a much grimmer and more tragic one: Over the last ten years, New Mexico consistently has one of the highest, and frequently the highest, per capita rate of people killed by police. According to Mapping Police Violence, our state is on track in 2023 to have more people killed by police per capita than any other state in the country.

Because of choices made by generations of policymakers that baked discrimination into nearly every aspect of our criminal legal system, police violence and misconduct in our state disproportionately impact people of color, low-income people, and people experiencing crises brought on by mental health or substance abuse issues.

Some of the names of our neighbors killed by police in recent years may be familiar to you: James Boyd, Amelia Baca, Robert Dotson, Antonio Valenzuela, Brett Rosenau, Elisha Lucero, Presley Eze, Jesus Crosby, Keshawn Thomas. Others may not be. But each story of police violence prompts us to ask, again and again, what needs to be done to keep our communities truly safe?

This disturbingly frequent pattern of killings by police persists even in a year when crime in New Mexico has fallen. Other parts of the country that have similar or even higher rates of crime, including violent crime, have much lower rates of police use of force and killings.

For far too long, the role of the police in our society has

expanded and crept into work that police are neither trained nor suited to do. Decades of “tough on crime policies” have made police more omnipresent in our communities than ever before. Whether it's enforcing laws against behavior that should never have been criminalized in the first place or responding to calls related to homelessness or drug use, this expansion of the role of police does nothing to keep us safe and, disturbingly often, gives rise to police interactions that end in tragedy.

This has to change.

Large infusions of cash designed to grow the police presence in New Mexico cities and towns, like the extra \$57 million the governor and legislature directed toward local police departments this year, aren't the answer to our problems.

Instead, we as a state need to look to the example set by Albuquerque Community Safety and Project LIGHT in Las Cruces. These different models for alternative crisis response are grounded in what we all know to be true: people in crisis need care, support, and access to resources, not a gun pointed at them. Our state needs meaningful investments in a holistic ecosystem of care far more than we need more armed strangers in uniform on our streets.

Although 97% of New Mexicans live in a county where police have killed someone in the last ten years, for many, the Albuquerque Police Department (APD) is emblematic of our state's troubling policing practices. In 2014, the United States Department of Justice found that APD had been engaged in a pattern or practice of excessive and unconstitutional force, resulting in a suite of court-mandated reforms laid out in what is known as the Court Approved Settlement Agreement (CASA). APD has struggled to comply with the CASA for nearly a decade, often resisting and undermining the reforms they were required to enact.

APD and the City of Albuquerque have made significant

97% of New Mexicans live in a county where police have killed someone in the last ten years.

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FROM THE DESK OF EXECUTIVE DIRECTOR PETER SIMONSON

The ACLU is no stranger to controversy. From defending the free speech rights of Nazi demonstrators to ensuring fair treatment for people convicted of sex offenses, we regularly make ourselves a target of the public's ire.

But no position that the ACLU takes draws more flak than when we rise to the defense of our unhoused neighbors. I'm sorry to say that some of the most scathing reactions come from our own ACLU members.

Recently we crossed this threshold again when we won a state court decision forcing the City of Albuquerque to abandon its practice of jailing unhoused people for occupying outdoor spaces and destroying their property without proper notice. The case arose from the city's destruction of an encampment of roughly 120 people that had sprung up in a city park north of downtown.

Living in Albuquerque, I understand the frustration with the growing number of desperate people living in the margins of our public spaces. My drive to the office takes me by freeway overpasses lined with ramshackle tents and people soliciting money from traffic medians. It feels lawless, desolate, and unsafe.

But as much as cities across the country might try, it's clear that we cannot police our way out of this situation. Anti-panhandling laws and encampment sweeps might temporarily clear out traffic medians and parks, but in the end, they only exacerbate the problem. Fines and criminal records all but end the chances that someone will eventually earn a livable income. Jails can only hold people for so long. In the end, people will end up right back where they started, desperate and

with nowhere else to go.

There is a solution to these problems, but it requires us to set aside our resentment and break our addiction to the positive feedback loop of police response, criminal consequences, and further marginalization of those of us who find ourselves unhoused.

It begins with housing. The sooner we can connect a person who becomes unhoused with a home, the better positioned they are to address the other challenges that may have led to their homelessness, such as obtaining employment or addressing substance addiction. For cases of chronic homelessness, we need permanent supportive housing.

It also requires a crisis response system that aligns the community and its services around one common goal – making homelessness rare, brief, and nonrecurring. We need to tailor services to an individual's needs and help them move through the system to housing as quickly as possible.

These are not pie-in-the-sky fixes but reality-tested solutions. Over a ten-year period, Houston cut its unhoused population in half following a "housing first" approach.

With the money we currently spend on police, jails, and hospital emergency rooms, we could be forging a new path for thousands of families to stabilize their living situations, bringing more order and prosperity to our neighborhoods.

As we head into the holiday season, and our thoughts turn to fellowship and goodwill, let's remember our neighbors living on the street. In the end, the main thing separating us is that one has a house to go home to and the other does not. That is not a crime, and it shouldn't be treated like one.



City of Albuquerque employees unconstitutionally seizing the belongings of unhoused

CIVIL LIBERTIES WATCHDOGS



The winner of the civil liberties watchdog competition is Chamois.

Submitted by her owner, Kari, Chamois (pronounced “shammy”) is a staunch defender of civil liberties. Her family sometimes mistakes her for the chenille microfiber towel.

Thank you to everyone who submitted their civil liberties watchdogs, cats, and goats!



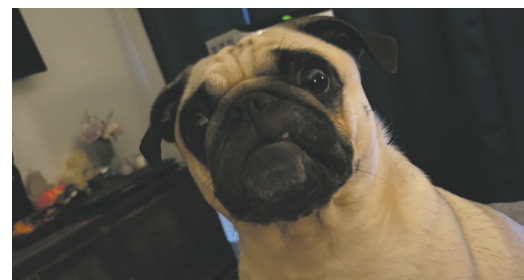
Above: Catkin knows everyone has rights, and they must be protected. Sent in by Faith.



Above: Luna keeping an eye out for civil liberties violations. Sent in by Carla.



Above: JoJo shows an example of good posture and form for all civil liberties watchdogs. Sent in by Kari.



Above: There is no doubt Winnie has the skill to spot wrongdoing. Sent in by Sara.

Left: This goat is ready to dig in to any possible civil liberties violations. Sent in by Lena.

BOARD ELECTION NOTICE

If you desire to run for one of the open positions on the ACLU of New Mexico Board of Directors in 2024, please send to the Nominating Committee a 250-word statement expressing your interest in and qualifications for serving on the Board.

The ACLU of New Mexico office must receive statements of interest by January 31, 2024. Nominees’ names will be placed on the election ballot and their statements will be published on the ACLU of New Mexico website.

With the board’s approval, the committee will send a slate of six recommended candidates to the membership for a vote in March.

Candidates who are not selected for the slate are eligible to place themselves on the ballot by obtaining a petition signed by 1% of the ACLU of New Mexico membership (currently 7,699 members total), supporting their nomination.

Please mail statements to:
Nominating Committee c/o ACLU of New Mexico, PO Box 566, Albuquerque, NM 87103

Statements may also be faxed to:
(505) 266-5916

Information on voting will be sent to members at least two weeks prior to the election. The election will be held on March 31, 2023.

POLICING

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advances toward full compliance in recent years, but serious issues persist. APD has adopted some of the most progressive use-of-force policies in the state, and overall uses of force are down—something we can all be grateful for and that law enforcement agencies throughout the state can learn from.



Photo: Albuquerque, New Mexico.

However, in 2022, APD officers killed more of our neighbors than they did even before the adoption of the CASA, a trend that thankfully seems not to have carried over into 2023. Meaningful civilian oversight remains elusive. It's troubling that the most recent report by the Independent Monitor on compliance with the CASA identified “grave and

substantial malfeasance” in the way the APD chain of command investigated the killing of Jesus Crosby, who was killed while experiencing a mental health crisis and armed with nothing more dangerous than a pair of nail clippers.

If APD, or any police department in this state, is going to truly reform, a profound culture change needs to take place within the institution of policing.

We all want to live in safe communities – that’s why police reform is so vital. At the ACLU of New Mexico, we are committed to working from the Roundhouse to local police departments around the state to ensure that all New Mexicans can trust that if a police officer is called to a situation, that officer will respect our rights and work for our safety.

UNPACKING OUR 2024 LEGISLATIVE SESSION AGENDA

By Nayomi Valdez, Public Policy Director



Photo: Nayomi Valdez

Here at the ACLU, we are busy gearing up for the next legislative session starting on January 16. We anticipate many of our policymakers will once again resort to trying to resolve public safety in our state with “tough on crime” legislation. We all want a safer New Mexico, but these outdated and failed approaches have never worked and clearly harm our communities. Instead, we will be supporting our leaders

in reimagining public safety to address the social structural factors that are the root causes of crime.

Much of our work this session, however, will be defensive. The 2024 legislative session is a 30-day budget session, and any legislation that is not budget-related is subject to the will/call of the governor. All legislation must be deemed germane in order to move forward in the legislative process.

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STAFF PICK



RESERVATION DOGS

Reservation Dogs is hilarious, heart-wrenching, inspiring, and a must-watch. It’s a coming-of-age story of four Indigenous teenagers (the Rez Dogs) growing up on a reservation in rural Oklahoma, whose dream is to run away to California—but the story is much deeper than that.

What I found most refreshing about Reservation Dogs is how intentional the writing is. Every single character is completely fleshed out; the writers did not only invest in the Gen Z teenage protagonists, but also their Gen X parents and Boomer grandparents.



- CARLA PALACIOS
ACLU OF NEW MEXICO
COMMUNICATIONS STRATEGIST

KESLEY VIAL DIDN'T KNOW IF HE WOULD LEAVE TORRANCE

By Rebecca Sheff, Senior Staff Attorney

This article includes mention of suicide. If you or someone you know is in emotional distress or considering self-harm or suicide, call or text the National Suicide Prevention Lifeline at 1-800-273-8255 or 988.

On the morning of August 17, 2022, Kesley Vial just wanted answers. He was desperate to know why he was still detained at the Torrance County Detention Facility in Estancia, New Mexico. He wanted to know when he would be getting out of there and why his scheduled deportation was repeatedly postponed. And he wanted to know if he could talk to anyone on the medical staff or in charge of human rights issues at the detention facility.

As a 23-year-old young man from Brazil, he traveled to the U.S. border in the spring of 2022 to seek asylum. He turned himself in to immigration authorities. But instead of being permitted to pursue his asylum claim in a supportive community environment, he was detained at the Torrance County Detention Facility.

Kesley, like many others, was put into the particularly egregious situation of being detained for what appeared to be an indefinite period of time. He didn't know how long he'd need to endure the conditions at Torrance. He recognized just how dystopian this situation was, calling it "psychological torture." What Kesley needed was the enhanced level of support and care that we would hope for any of our loved ones dealing with mental health issues or suicidal ideation.

"Our lawsuit identifies serious systemic failures and shortcomings in the facility's mental health care..."

What Kesley didn't know when he arrived at the Torrance facility in late April of 2022 is that federal inspectors had just recently visited the facility and issued an unprecedented urgent alert calling for the immediate removal of all people detained there because of dangerous conditions and extreme understaffing that posed serious threats to health and safety.



Photo: Kesley Vial (left) with his grandmother.

A private prison company, CoreCivic, Inc., runs the Torrance facility. The company profits off the detention of people in facilities across the United States, including New Mexico. CoreCivic and its staff were responsible for keeping Kesley safe while he was detained at Torrance – and they failed in those responsibilities.

CoreCivic knew how much distress Kesley was experiencing, but they failed to recognize and respond adequately to the many clear signs that Kesley was at risk for self-harm and suicide. When it mattered most, they disregarded critical red flags, leading to his death by suicide that tragic day despite his repeated requests for help.

His family's grief at the loss of this young man's life is immense. The family is "devastated by his senseless death." They remember him as "such a kind person, adventurous, a collector of stories, and so full of life."

"Kesley is in our thoughts every day, and the wound in our hearts has not even begun to heal. Nothing will bring him back, but we know that he will never be forgotten, and he will never cease to be loved."

Our office and the law firm of Coyle & Benoit, PLLC, filed a lawsuit in late September on behalf of Kesley Vial's wrongful death estate. Our lawsuit identifies serious systemic failures and shortcomings in the facility's mental health care and charges that CoreCivic's extreme negligence resulted in Kesley's tragic and preventable death.

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“Kesley is in our thoughts every day, and the wound in our hearts has not even begun to heal.”

The federal inspectors who called for an immediate end to the government’s use of the Torrance facility aren’t the only ones who have had concerns. In 2022, New Mexican Senators Martin Heinrich and Ben Ray Luján called for the federal government to end its contract with the Torrance facility and release or transfer the people detained there. Just earlier this month, Senator Heinrich publicly renewed his concerns at a congressional hearing, calling on the head of the U.S. Department of Homeland Security, Secretary Mayorkas, to commit to becoming personally familiar with the facility and its challenges.

In fact, Homeland Security is well aware of the issues at

the Torrance facility. As reported recently in Reuters, the federal government had short-listed Torrance as one of several immigration detention facilities that should be closed or downsized, recommending that the contract should be ended because of high costs and staffing shortages – but Torrance stayed open.

We are committed to continuing to fight for the termination of the ICE contract for the Torrance facility to put an end to the suffering of so many who have been detained there. In early November, we filed another lawsuit on behalf of a group of people detained at Torrance, challenging ICE’s determination that the facility had passed its annual inspection despite egregious conditions.

Kesley’s death was preventable, and his young life was tragically cut short. We are honored to work on behalf of his wrongful death estate to seek justice in his name.

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OUR STATEMENT CONCERNING NATIONAL ACLU REPRESENTATION OF NRA

The National ACLU agreed to represent the National Rifle Association (NRA) in challenging actions by the New York State Superintendent of Financial Services, pressuring banks and insurance companies to stop doing business with the NRA and other “gun promotion” organizations. The facts of the case, if accurate, would raise significant First Amendment concerns. At a time when authoritarianism is on the rise and right-wing politicians are bent on exacting retribution against their opponents, the Supreme Court decision in this case could set an important precedent.

Nonetheless, the ACLU of New Mexico opposes the decision to represent the NRA. By promoting hate, fear and the proliferation of firearms, the NRA inspires many of the civil rights atrocities that the ACLU of New Mexico battles day and night. In our estimation, the cost of aiding such a destructive organization outweighs the benefit of leading a First Amendment lawsuit, even before the U.S. Supreme Court.

The ACLU of New Mexico reserves its help for people who most need it. As our bylaws state, “We work to make justice, liberty and equity realities for all people in New Mexico, with particular attention to the rights of people and groups that have historically been disenfranchised.”

The NRA does not need the ACLU’s help. It is powerful, well-resourced, and capable of recruiting the most skilled lawyers to its cause. Indeed, according to the New York Times, a “prominent First Amendment scholar” represented the organization before the National ACLU stepped in.

Finally, the ACLU of New Mexico reserves the right to withhold legal representation from people and groups that have a history of violence or promoting violence. While the NRA may not explicitly advocate violence in its mission, policies, and official statements, its uncompromising advocacy for unlimited access to firearms of virtually any power and capacity have made possible untold pain, misery, and death in our communities.

We do not dispute the merits of the NRA’s case or the possibility that it would set a consequential legal precedent. Throughout our organization’s history, we have often advocated for people and groups that were scorned even by our own members. However, the ACLU of New Mexico cannot support this case and stay true to its bylaws and values.

SESSION

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**We did not get here in a year,
and we will not break these
cycles in a year.**

This presents both challenges and opportunities for our work, but we are committed to making progress however possible.

Much of our time and energy will be spent fighting efforts to create new crimes, increase sentences, and unnecessarily jail people awaiting trial. We will also oppose any effort that aims to criminalize people who are unhoused or suffering from substance abuse disorder. While these measures may feel like real solutions to some legislators and even the public, we know that they ultimately result in rising rates of incarceration, further entrenching New Mexicans in a system that is not rehabilitative nor reformative.

We will be helping our champions in the legislature in addressing the ongoing issues in our community that drive crime and prevent New Mexicans from receiving the support they desperately need. This includes securing further funding for housing, behavioral health, diversion programs, and

early-intervention programs. We will be there reminding the legislature that ensuring people's most basic needs of shelter, healthcare, and food-security are met in the short-term - while allowing the past investments in education, pre-k, and social programs to take full effect - will reduce crime and make our communities safer in ways that align with our values.

We did not get here in a year, and we will not break these cycles in a year. Elected officials must resist the temptation to fall back on policies we know will ultimately fail our communities.

Thankfully, it will not be all defensive work for the ACLU in the 2024 session. There will be other issues we will be working on proactively. Passing legislation on Indigenous justice, immigrants' rights, reproductive freedom, data privacy, paid family medical leave, and even prison reform is not out of reach. While it is too soon to publicly share details, I can say with optimism and certainty that the ACLU and our partner organizations will once again be working in lockstep to advance our causes.

We are so deeply grateful for the policy makers and advocates who have and continue to stand strong in their values and the facts.



Photo: New Mexico State Capitol