

Astorga Manhunt Spawned Illegal Searches, Rights Violations

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CONTACT: Whitney Potter, Communications Manager, ACLU-NM

PHONE: (505) 266 5915 ext. 1003

Albuquerque, NM—Bernalillo County Sheriff Darren White said in a March 24, 2006 story by the Albuquerque Journal that “there’s nothing we won’t do to catch him,” meaning Michael Astorga, a felon who was wanted for the murder of a Bernalillo Country Deputy Sheriff. In the days that followed, state and local law enforcement illegally searched the homes of two families.

On Thursday, September 28, 2006, the ACLU of New Mexico filed civil rights lawsuits on behalf of the Gonzales and Poolaw families, claiming multiple violations of their rights against unwarranted search and seizure and excessive use of force.

“It is unfortunate that such an important criminal investigation was tarnished by such reckless behavior,” said ACLU executive director Peter Simonson. “The police allowed their emotions to get the best of them and two innocent, law-abiding families paid the price. Ironically, these actions only added to the danger that Astorga already posed to the community”

On March 25, 2006, about 20 Albuquerque Police Department officers and at least one State Police officer, many in masks, descended upon the home of Kathy Gonzales. With assault rifles pointed at the Gonzaleses, the officers ordered Gonzales, her two children, and her 75 year-old mother to exit the home and get on the ground or risk being shot. They handcuffed the two teenagers, and searched the home. The officers did not have a search warrant. Finding nothing, the officers finally explained that they had an anonymous ‘tip’ that Astorga was there. The Gonzaleses had never heard of Astorga before the news reports of the shooting.

On March 24, 2006, Bernalillo County Sheriffs Officers searched the Poolaw residence. The officers had a search warrant based on a BCSO detective’s affidavit that claimed there was “reasonable grounds” to believe Astorga was at the residence. However, the detective intentionally omitted crucial information, including that the Poolaws are afraid of Astorga, wanted him apprehended, and had helped BCSO officers try to locate Astorga. The application for the search warrant also did not mention that Rick Poolaw was a 25 year veteran of the NM State Police. During the search, the officers handcuffed the Poolaws. Of course, Astorga was not there.

The Poolaw’s home was damaged by the officers during the search, including a shower stall and two gates. Additionally, nearly 1,500 dollars were seized. The cash has not been returned, and compensation for the property damage has not been made.

Some officers reportedly apologized to the Poolaws after the search of their home.

“The murder of the sheriff’s deputy was a horrible incident that demanded immediate response,” said ACLU co-legal director Jane Gagne. “However, we must never think that ignoring the Constitution is justified in the search for a criminal. The police don’t need to suspend our rights in order to conduct an effective investigation. Indeed, these two illegal searches contributed nothing to the Astorga investigation.”

Plaintiffs seek compensatory and punitive damages. Attorneys for the ACLU are Jane Gagne, Philip B. Davis, and Frances Crockett.