



FIFTY YEARS DEFENDING FREEDOM | 1962 - 2012

the TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

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The Election Is Over, Now What?

Bill Clinton and John McCain have stopped calling you every night. The canvassers have all gone home. The mean-spirited television ads have come to a blessed stop. The election is finally over.

Now comes the hard work of protecting our civil liberties in the halls of political power. During the 2013 legislative session, which starts in January, the ACLU of New Mexico (ACLU-NM) will have a long list of priorities. If we work together, work hard and work smart, we can achieve some real and lasting victories for civil rights in our state.

Near the top of our list is a statute to create an independent public defenders department. We need to fully protect the rights of those accused of crimes to receive high-quality legal representation, even when they can't afford it. This issue appeared as a constitutional amendment on the ballot this election, and it passed with flying colors. Now we need a state law, outlining what such a thing would actually look like. Luckily, we have lots of good models from other states.

Another priority is a bill to improve school absence and leave policies for pregnant and parenting teens in New Mexico. The ACLU-NM collaborated with a host of educational, civil rights and women's groups over the course of 2012 to examine various proposals for reducing educational barriers faced by pregnant and parenting students.



The resulting report recommends ambitious reforms of absence and leave policies for these students. We would like to see this happen in 2013.

Another big goal involves implementing policies designed to reduce the incidence of sexual assault in New Mexico prisons and jails. This year, the U.S. Department of Justice issued its final rule adopting national standards to prevent, detect, and respond to prison rape, as required by the Prison Rape Elimination Act of 2003. The standards are very good. The trick is to pass a law in New Mexico to ensure they're enforced at all detention facilities in New Mexico.

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Welcome to the ACLU of New Mexico

There is a good chance that for many of you this is the first ACLU of New Mexico newsletter you have ever read. Over the past year more than 2,000 new members joined the ACLU here in New Mexico, mainly thanks to the tireless efforts of our team of canvassers who stood outside in the desert heat for three months engaging passerbys in conversations about civil liberties.

So to the many people who stopped to talk with our canvassers and joined the ACLU, thank you and welcome to the American Civil Liberties Union of New Mexico. You couldn't have picked a more exciting time to join the movement to protect and extend basic freedoms in New Mexico. In this moment we face grave threats to our constitutional rights, but we also see historic opportunities for restoring justice.

Over the next few years, our organization has several priorities in the state:

Winning the freedom to marry in New Mexico. We believe that gay and lesbian couples should have the freedom to marry the person they love. Thousands of same-sex couples in New Mexico are already doing the hard work of marriage in their daily lives, planning for the future, raising children, struggling to make ends meet and caring for sick family members. Many want to stand up in front of their friends and family to make this special commitment



to one another, and have that commitment recognized by the state they live in. It's all part of treating others as you would want to be treated: with respect and dignity.

Defending rights along the border. The ACLU of New Mexico Regional Center (RCBR) for Border Rights in Las Cruces, NM works every day at the local, state, regional and national levels to increase oversight and accountability for

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Visit www.aclu-nm.org to learn more about our work!



THE TORCH

The Torch is a quarterly publication sent to members and supporters of the American Civil Liberties Union of New Mexico. Please send any comments, questions or article submissions to Micah McCoy, Editor and Communications Manager at: mmccoy@aclu-nm.org

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Now What?

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Last but not least, we would really like to see a law that reforms the state civil asset forfeiture process. Right now, state and local law enforcement can evade this process by collaborating with federal law enforcement in the seizure of property. Basically, the feds take property from people based on a mere hunch that the property might be connected with illegal activity, then they give a huge part of this property to state or local law enforcement in what essentially amounts to a kickback. We need to plug up this loophole that allows this clear violation of people's due process rights.

These are some of the positive pieces of legislation we'll be working on. As usual, we'll also have to beat back a tidal wave of legislation aimed at weakening the civil rights of New Mexicans.

At least half of these bad bills will involve absurd, zero-tolerance proposals that create new crimes or that jack up sentences on existing ones. Our prisons and jails are already overcrowded. We're experiencing a huge over-incarceration crisis in this country. Our failed tough-on-crime policies are destroying families and, in some cases, entire communities. We need to start implementing creative programs designed to rehabilitate non-violent offenders and put an end to the short-sighted retribution-based policy proposals that clog up the legislative process every session.

We can also expect new attempts to limit women's access to reproductive care. In particular, a new attempt to require parental notification before minors can get abortions will almost certainly be introduced this session. On the surface, this proposal might sound unobjectionable, but unfortunately not every family situation is stable and supportive. Forcing a young woman to disclose her pregnancy could put her in grave danger from abusive parents – especially in cases of incest. Even when incest is a factor,

Welcome

Continued from page 1

the thousands of federal agents that patrol the border region. Currently, the border region is a 'constitution lite' zone, where immigration agents are free to violate rights and use excessive force with impunity. The RCBR also works closely with community coalitions to stop local and state police from enforcing federal immigration law, a practice that leads to racial profiling and tears apart New Mexican families.

Protecting access to reproductive healthcare. Over the past two years we have seen an unprecedented assault on the right of women to make medical decisions concerning their own bodies. Here in our state legislature, politicians have relentlessly tried to jam through laws that would roll back the clock to a time when women were forced to obtain abortions in dangerous and illegal back-alley procedures. In 2010, Operation Rescue, an extremist anti-abortion organization with ties to violent criminals, relocated two "missionaries" to Albuquerque to harass doctors and their patients. The ACLU of New Mexico is committed to keep the choice of whether or not to have an abortion in the hands of the individual, not fringe politicians or religious extremists.

Ending sexual assault in New Mexico's prisons. New Mexico currently has one of the highest rates of prison sexual assault in the nation. In fact, according to a 2007 report by the Bureau of Justice Statistics, two of the top three prisons with the highest rates of sexual assault are in New Mexico.

many young women could be met with violence from their families if forced to notify them of their pregnancies. The simple reality is we aren't in these young women's shoes, and they themselves are the best people to decide whether it is safe and appropriate to disclose their pregnancies to their parents.

Another big concern is that a renewed attempt to ban marriage between same sex couples will gain traction during the next session. It's really nobody's business – and certainly not the government's – who a person chooses to love. We need to do everything possible to prevent this type of discrimination from being written into New Mexico law. Finally, we can expect a new push to make it harder for the elderly, Native Americans, Hispanics, students, low-income and disabled voters to cast a ballot. That's right – a new voter photo ID proposal (or three) is almost certainly in the works here in New Mexico. The ACLU-NM will again work with voting rights allies to block these anti-democratic measures.

Those are the highlights. We're facing a longer 60-day session this time around, so that makes it easier for bad legislation to pass. On the bright side, though, the longer session also makes it easier to pass proactive laws that will expand the civil liberties of New Mexicans—and that's exactly what we intend to do.

I hope to see you in Santa Fe.



Steven Robert Allen
Director of Public Policy



co. Rape is no less wrong inside prison walls than out. The ACLU of New Mexico is currently working to create better policies that protect inmates from sexual assault and is aggressively prosecuting cases where prison employees rape inmates or turn a blind eye to prisoner-on-prisoner sexual assault.

Reducing barriers in education for pregnant and parenting students. New Mexico has the second highest rate of teen pregnancy in the nation. We also have the second highest dropout rate in the country. Inflexible and overly strict absence policies in our public schools often force pregnant and parenting teens to choose between being a good parent and being a good student. The ACLU of New Mexico is working with a diverse coalition of educators and community organizations to reform statewide absence policies to allow pregnant and parenting students to make up missed work due to childbirth, infant care and doctor visits. We need to make sure our schools are not pushing out pregnant and parenting students; they have the same right to education as everyone else.

We hope you are as proud to call yourself a card-carrying member of the ACLU as we are. For us, being part of the ACLU is a way of showing our commitment to the basic principles that make our country great. The freedom to speak your mind, the liberty to worship and believe—or not—without government interference, the right to be treated fairly by law enforcement: these are all rights that we must be constant and vigilant in defending. As ACLU founder Roger Baldwin was fond of saying, "No struggle for civil liberties ever stays won."

Thank you for joining the struggle.

Executive Director's Notes

Election Results Equals Good News for Civil Liberties



PETER SIMONSON
Executive Director

The recent elections give ACLU of New Mexico supporters reasons to be hopeful about the coming years.

Unlike recent elections, the clamor about “voter fraud”—which is almost nonexistent in New Mexico—seems to have quieted. Remember that it was only four years ago that the ACLU sued Republican Party officials for releasing confidential information on voter registration forms and harassing voters in their homes in an ill-conceived effort to expose illegitimate voters. (None, of course, were found.) Ever since the ACLU used public records requests to demand that Secretary of State Dianna Duran prove her unsubstantiated claims that 38 immigrants had voted in past elections, we’ve heard far fewer reckless allegations of “voter fraud” from people who would benefit politically from lower voter turnout. More and more, people in New Mexico recognize that the real fraud is perpetrated by politicians who try to rig the system to their own benefit and discourage access to free and fair elections. With renewed litigation by the ACLU and other organizations to challenge voter ID laws in Pennsylvania and other states, we might be seeing the beginning of the end of these deceptive tactics.

Legislators who are strong on civil liberties issues retained a firm majority in the Senate and strengthened their hand in the House. It appears likely that several key legislative committees will remain controlled by legislators who have helped us defeat a host of attacks on basic civil liberties over the years, including bills requiring parental notification for teenagers to obtain abortions and to strictly exclude gay and lesbian couples from marriage. After the 2010 election, the balance of power in the House was far less stable and an anti-immigrant coalition of lawmakers was able to circumvent the committee process and strong-arm the Governor’s bill denying driver’s licenses to immigrants directly onto the House floor for a vote. The shift of three House seats this election will hopefully stop that from happening again.

Indeed, if the Governor had difficulties passing legislation before, the fallout from this election probably narrows her room to operate even further. Senate Democratic Pro Tem Tim Jennings’ loss to newcomer Cliff Pirtle removes the keystone that held together a bipartisan, conservative-leaning coalition in the Senate, a significant factor in the defeat of domestic partnership legislation several years ago. In addition, pundits believe that Governor Martinez’s PAC’s unsuccessful attempt to defeat Senate Majority Leader Michael Sanchez means she has less chance of getting her pet legislation passed. Not with Senator Sanchez controlling the flow of legislation through committees.

All of this is good for your rights because the Governor has shown little love for civil liberties with her efforts to expand DNA collection from arrestees, restrict access to safe, legal abortions, and Arizona-style attacks on immigrants.

As a non-partisan organization, the ACLU focuses on the issues and doesn’t get involved in politics. But, for better or for worse, politicians are the people who pass laws that can have profound impacts on your civil liberties. Never say that elections don’t matter.

The final good piece of news for the ACLU’s work here in New Mexico stems from national developments. The resounding success of ballot initiatives regarding marriage for same-sex couples in Maine, Minnesota, Maryland and Washington signals a turning of the tide on popular attitudes around gay and lesbian rights. This year the ACLU of New Mexico and its allies launched a major statewide campaign to educate New Mexicans about the freedom to marry, setting the stage for legislative or legal strategies to expand LGBT rights. The national trend is bound to give these efforts a positive bump.

After eight years of the Bush presidency, President Obama’s spotty first-term record on civil liberties, and a shift to the right in state politics two years ago, the prospects for defending, if not expanding civil liberties in New Mexico suddenly look a little brighter. The ACLU has big plans for the next four years—priorities that address the full spectrum of civil liberties, from immigrant rights, to corrections reform, to reproductive choice. We enter 2013 with hope on our shoulder and determination in our gaze.



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1962 - 2012



THANK YOU to the more than 200 civil libertarians who attended the ACLU of New Mexico 50th Anniversary Celebration this August. It was a honor to celebrate this landmark in our shared history with the people who make the ACLU's work possible. From humble beginnings in 1962, our collective efforts have built the ACLU of New Mexico into the largest civil liberties organization in the state. With two offices, fifteen full-time staff and dozens of cooperating attorneys, the ACLU of New Mexico is truly a formidable organization, fueled by dedication to the Constitution and a passion for ensuring justice for all. In the past five decades, the ACLU of New Mexico has fiercely advocated in the courts, legislature and media to extend and defend our most basic freedoms. We look forward to meeting the challenges and opportunities of the next 50 years with you by our side.

ACLU of New Mexico 50th Anniversary Film

Did you miss the celebration? You can still watch our 50th anniversary film, [Fifty Years Defending Freedom](#), and learn about the ACLU's rich history in New Mexico. This 17 minute short film is available for online viewing at www.aclu-nm.org, or for camera equipped mobile devices, scan the 'QR' code below to watch now!



FIFTY YEARS OF DEFENDING FREEDOM IN NEW MEXICO

Board president Gary Mitchell (below) and co-legal panel director Phil Davis (right) dedicate memorial portraits of board member Jack Steadman and former executive director Grace Williams. Joyce Briscoe, Bill Dixon, Paul Phillips and Ray Schowers were also honored.



Special thanks to our 50th Anniversary Celebration sponsors!

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ABOVE: Lady liberty birthday cake, courtesy of A Cake Odyssey!



ABOVE: The Nacha Mendez Trio provides entertainment and traditional New Mexico flavor for the guests.



ABOVE: Members of the ACLU of New Mexico UNM Law School Chapter getting ready to enjoy the celebration.



LEFT: Civil libertarians from all over New Mexico pack the Andaluz Hotel ballroom to celebrate half a century of defending freedom.



Holding Police Accountable

DOJ Investigates Albuquerque Police Department

After months of public outcry, the Department of Justice Office of Civil Rights (OCR) announced on November 27th that it will conduct a thorough investigation into the pattern and practice of use of force, including but not limited to deadly force, by the Albuquerque Police Department. While the ACLU of New Mexico wasn't the only organization calling for the investigation, the ACLU was certainly one of the lead organizations, joined by the League of United Latin American Citizens (LULAC) and the Dr. Martin Luther King Memorial Center. Thomas Perez, Civil Rights Division Assistant Attorney General, met with our organizations and the US Attorney for New Mexico, Ken Gonzalez, just before the press conference announcing the investigation.

The Department of Justice investigation is the culmination of a disturbing two years for the citizens of Albuquerque. Since January 2010, APD officers have shot 23 people, killing 17, some of whom were unarmed or mentally ill. This rate of officer involved shootings far exceeds that of cities of similar size and demographics. Beyond use of lethal force, APD officers have also been caught on tape multiple times using excessive force against suspects.

The DOJ's inquiry is likely to take one to two years and, while it will focus on the use of force, Perez and his lead investigator, Luis Saucedo, assured the public that the probe will likely extend into the general culture of the Department and ultimately address systemic questions beyond use of force.

"When you open up one door, thinking that's the only door you'll open, you often find that there are five more doors and a few windows and maybe an attic and even a trap door that you have to go through," said Perez during the press conference. "We're going to peel the onion to the core."

Legal Director Laura Schauer Ives and Executive Director Peter Simonson met with investigators after the press conference and primed the investigators with a wide range of information, including incidents of police inquiring about immigration status, reports of officers seizing and destroying the IDs of homeless people, and APD's resistance to answering public records requests. The ACLU of New Mexico was able to connect them with other organizations in the community that could offer additional information.

In the last four years under the Obama administration, the OCR has carried out 14 investigations against police departments in major cities around the country, including New Orleans, Seattle, and New Haven, Connecticut. That they chose to invest their limited resources in Albuquerque, when so many other communities are clamoring for their attention, means the evidence against APD was compelling. Validation of our concerns is gratifying, but more important is the possibility that an outside agency, with the authority to bring legal sanctions against the department, is finally going to correct the wanton, gang-like mentality that seems to pervade the department. We can begin to hope that the DOJ will give us a police department we can rely upon rather than fear.



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RCBR Dispatch

RCBR Policy Advocate Testifies to U.N. About Border Patrol Abuse

On October 25th, ACLU of New Mexico Regional Center for Border Rights (RCBR) Policy Advocate Brian Erickson provided testimony on behalf of the ACLU at the United Nations as part of a U.N. General Assembly side event that examined human rights violations at international borders, including the U.S.-Mexico border. The side event, which was chaired by the U.N. High Commissioner for Human Rights and moderated by Mexico's ambassador to the U.N., forms part of a growing dialogue within the U.N. and international community that began in March during an expert consultation on the matter and looks to continue at the upcoming Global Forum on Migration and Development.

For the RCBR, this was just the latest in a year-long effort to bring attention to the pervasive culture of abuse and impunity within our nation's largest law enforcement agency, U.S. Customs and Border Protection (CBP), which includes both the offices of Border Patrol and Field Operations.

Earlier this year, successful collaboration by the Southern Border Communities Coalition of 60 non-governmental organizations, including the ACLU, led to the production by the PBS Need to Know program of "Crossing the Line," a two-part expose examining abuse by CBP.

Part one, released on April 20th, explored the case of Anastasio Hernandez Rojas, whose death while in the custody of CBP appeared uninvestigated for nearly two years. Eye-witness testimony and a cell phone video uncovered by the Need to Know program shocked viewers and prompted a joint sign-on letter from 16 members of Congress demanding an investigation. The video depicts more than a dozen CBP officials surrounding Anastasio, who is handcuffed face-down on the ground, pinned by a knee against his neck. His screams of pain are chilling as an agent tases him over and over again until he stops breathing.

Soon after the program aired, news outlets soon reported the convening of a grand jury to investigate the case.

Later in May, ACLU border affiliates coordinated joint submission of an administrative complaint with the Department of Homeland Security's Office of the Inspector General and Office of Civil Rights and Civil Liberties that documented 11 cases of abuse at ports of entry (POE) along the U.S.-Mexico border. The case of Jane Doe, documented and submitted by the RCBR, became the opening segment of part two of the PBS Need to Know program, which aired July 20th.

Ms. Doe's story and those of the other testimonies within the complaint illustrate a wider culture of inhumane and degrading treatment within CBP custody. Ms. Doe, a victim of sexual assault at the hands of a Border Patrol agent at a checkpoint near Truth or Consequences, was subjected to an intimidating pat-down and questioning by CBP officials at an El Paso POE during a follow-up meeting, despite objections from both an ACLU-NM employee and the State Police officer investigating the case. She subsequently dropped the investigation.

While the RCBR remains committed to the overarching goal of stopping abuse in CBP custody, shining light specifically on cases of excessive use of force has been a focal point of advocacy this year and formed the main focus of Brian's testimony before the U.N.

You may not recognize the names of border casualties Carlos Lamadrid or Ramses Barron Torres, but growing civil society and international outcry this year hopefully means you're more likely to have heard of 15-year-old Ser-



PHOTO: Brian Erickson testifying before the U.N.

gio Adrián Hernández Guereca or 16-year-old Jose Antonio Elena Rodriguez, who was shot seven times in the back by a CBP official while standing in Mexico during an alleged rock throwing incident in mid-October. Their deaths form part of a larger trend of deadly use of force incidents by CBP officials—18 to be exact—since January 2010.

Among these 18 cases, eight involve agents responding to individuals who were allegedly throwing rocks, six involve individuals who were killed while standing on the Mexican side of the border, six were under the age of 21, and five victims to date were U.S. citizens. Of greatest concern, however, is the complete lack of transparent investigations or any form of accountability in the vast majority of these cases, which the ACLU's written testimony and Brian's testimony highlighted before the U.N. in October:

"The frequency and regularity of CBP's use of lethal force is alarming and demands a comprehensive, independent investigation of CBP policies and practices, as requested by members of Congress, the Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, and the Southern Border Communities Coalition of 60 non-governmental organizations, including the ACLU."

An internal investigation announced the week prior to our U.N. visit and initiated by the DHS Office of Inspector General may answer some concerns regarding use of force incidents. However, it is essential that the United States launch a comprehensive external investigation in addition to this pending internal review.

To fulfill its human rights commitments to prohibit, prevent and punish the use of lethal force in carrying out immigration control or border patrol activities, the U.S. government should increase transparency of investigations into violent incidents, establish effective and independent oversight of Border Patrol agents, train agents to use alternative means of force and de-escalation techniques when faced with individuals throwing rocks; and cease arguing in court that victims' survivors have no judicial remedy to recover damages from deadly-force incidents.

Finally, the establishment of a permanent external, independent oversight commission by Congress is an essential next step to ensure that 16-year-old Jose Antonio Elena Rodriguez and others killed or otherwise abused by CBP get some measure of justice, and to prevent others needless loss of life.

We cannot allow our borders to become constitution-free zones where law enforcement officers abuse and kill human beings without consequence or scrutiny. When a border patrol agent or other law enforcement officer beats or kills a father trying to rejoin his family, they do these things in our name. Our shared values as Americans demand we do better.



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Notices

Bylaws Changes

The Board of Directors has proposed changes to the ACLU of New Mexico bylaws that include re-ordering the bylaws to improve readability as well as procedural changes that will streamline or update aspects of the Board of Directors meetings, nominations and elections.

The changes specify that only current members of the Board of Directors can call a special meeting of the Board, sets attendance requirements for board members, and modifies the process for termination. The revised nomina-

tion process specifies that nominations for the Board of Directors will be made either by the Governance committee or by five percent of the membership and that all candidates shall be interviewed by the Governance committee, which will recommend a slate of candidates to the general membership. The election process will now give the Board the ability to utilize online voting.

For more information on the bylaws changes go to www.aclu-nm.org/bylaws2013.

ACLU Board of Directors Notice of Elections, 2013

If you desire to run for one of the seven open positions on the ACLU-NM Board of Directors, you must send to the ACLU-NM Board Administration Committee:

A 250 word statement of interest to the ACLU-NM Board Governance Committee to be considered as a Board nominee; or a petition signed by 1% of the ACLU-NM membership (currently 6,100 members total), supporting your nomination, along with a 250 word statement of interest. NOTE: Statements of interest must include a statement of willingness to serve, if elected.

The ACLU-NM office must receive statements of interest/signed petitions by January 31, 2013. Nominees names will be placed on the election ballot and their statements

will be published in the next issue of the ACLU-NM's quarterly newsletter, The Torch.

Please mail petitions and statements to:

Board Governance Committee
c/o ACLU of New Mexico,
PO Box 566, Albuquerque, NM 87103

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

Ballots and statements of interest will be mailed to members at least two weeks prior to the election. The election will be held on March 31, 2013.

New Staff



Amanda Johnson, Field Organizer

Amanda Johnson serves as field organizer for the ACLU of New Mexico. Amanda's previous experience includes serving as a regional organizer for a 2010 Congressional campaign in Rhode Island, and coordinating community-wide efforts to prevent the Massachusetts affordable housing legislation from being struck down by a statewide referendum. She has also served as a legislative intern for Massachusetts Governor Deval Patrick, an advocate for immigrants' rights at the Massachusetts Immigrant and Refugee Advocacy Coalition, and a weekly op-ed columnist for the Tufts Daily newspaper. In addition, Amanda spent a semester in Buenos Aires, Argentina, studying and leading workshops for underprivileged youth. She joined the ACLU in July 2012 after graduating from Tufts University with a degree in International Relations.



Alyssa Telander, Outreach Coordinator

Alyssa Telander joined the Regional Center for Border Rights in October of 2012, focusing her work on outreach, education, and documentation of civil and human rights abuses. She came to the RCBR after two years serving as a Border Servant Corps volunteer in El Paso, Texas. During her time in El Paso she worked on issues of wage theft and workers' rights at Paso del Norte Civil Rights Project. She also worked at Diocesan Migrant and Refugee Services providing services for immigrant victims of domestic violence. Alyssa graduated from Luther College with a B.A. degree in Women and Gender Studies. During her time at Luther she had the opportunity to work with refugees in the island nation of Malta in addition to working with immigrants in Postville, Iowa in the wake of a massive immigration raid in the spring of 2008. Alyssa enjoys living and working on the border and getting involved in her community.



Grace Lundergan, Project Coordinator

Grace Lundergan serves as the Project Coordinator for the Regional Center for Border Rights, working on outreach and giving Know Your Rights presentations. She joined the RCBR in August 2012 through the Border Servant Corps volunteer program. Grace graduated summa cum laude from The College of Wooster in Wooster, Ohio, where she studied English and Spanish and won departmental honors for her senior thesis on the novels of Isabel Allende. She spent a semester studying in Quito, Ecuador, where she improved her Spanish and began to learn about the challenges that a developing country faces. After graduating, Grace spent a year teaching English in Mallorca, Spain. She has writing and editing experience as an editorial intern for Friends Journal in Philadelphia and as part of the student editorial staff for the national literary magazine The Artful Dodge at Wooster. Grace also researched medical interpreting for St. Joseph Community Health Foundation, a group that serves refugees and low-income minorities in Fort Wayne, Indiana. Grace enjoys reading, Zumba, and hiking, and she is excited to live in the Southwest.