



# the TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

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## Ending the War on Marijuana in New Mexico

When the history of marijuana prohibition in the United States is written, 2014 will be marked as the year when everything started to change. In January of this year, Colorado became the first state to implement a law that taxes and regulates marijuana for recreational use, and Washington state will implement their own marijuana legalization program later this year. Even the President of the United States—a position that has for the last 40 years largely been synonymous with “drug-warrior-in-chief”—publicly conceded in a New Yorker interview that marijuana is less dangerous than alcohol and that it is important for legalization in Colorado and Washington to move forward.

The growing groundswell of communities and states who are saying “enough” to the failed War on Marijuana includes New Mexico. In the recently concluded legislative session, Sen. Jerry Ortiz y Pino introduced a constitutional amendment modeled on the Colorado law that would legalize recreational marijuana use, with a 25 percent tax earmarked to help fund education programs in the state.

“The whole point would be that it would be a step toward a more rational approach to the use of a substance, much as we do with alcohol now,” Ortiz y Pino told the Albuquerque Journal.

The proposed law didn’t make it out of committee, but the debate it spurred is leading New Mexico to seriously consider for the first time: why shouldn’t we tax and regulate marijuana like alcohol? What are the costs of continuing the failed War on Marijuana? And how did we end up declaring war on a weed in the first place?



To understand how the War on Marijuana began we have to look all the way back to the first American pot growers: the Puritans. Brought over by early European colonists in the 1600s, hemp, a tall growing variety of cannabis, was cultivated for its fibrous stalks which were processed and used to make rope, sails, and other useful products. In the late 19th century through the early 20th century, cannabis was a common ingredient in many prescription drugs. Hashish parlors enjoyed brief popularity amongst urbanites in the late 1800s, but recreational marijuana use never penetrated the wider American consciousness until the early 20th century when Mexicans fleeing the devastation of the Mexican Revolution introduced the custom to American culture.

This is where the United States’ first real problems with marijuana begin.

*Continued on page 2*

## Two More Huge Court Victories in New Mexico

What a way to cap off an incredible year. Exactly a month after defeating the Albuquerque abortion ban ballot measure, the ACLU of New Mexico and its legal partners won the freedom to marry for same-sex couples in New Mexico. On December 19, after nearly two months of breathless waiting, the New Mexico Supreme Court ruled that it is unconstitutional to deny loving, committed same-sex couples the right to marry in New Mexico.

Writing for the court, Justice Edward Chavez said that “bar- ring individuals from marrying and depriving them of the rights, protections, and responsibilities of civil marriage solely because of their sexual orientation violates the Equal Protection Clause under Article II, Section 18 of the New Mexico Constitution. We hold that the State of New Mexico is constitutionally required to allow same-gender couples to marry and must extend to them the rights, protections, and responsibilities that derive from civil marriage under New Mexico law.”



**Albuquerque residents celebrate the marriage ruling by candlelight in Morningside Park.**

When the ACLU of New Mexico broke the good news, celebrations broke out from Santa Fe to Las Cruces with elated citizens gathering in public parks to commemorate New Mexico becoming the 15th state to allow marriage for same-sex couples.

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### THE TORCH

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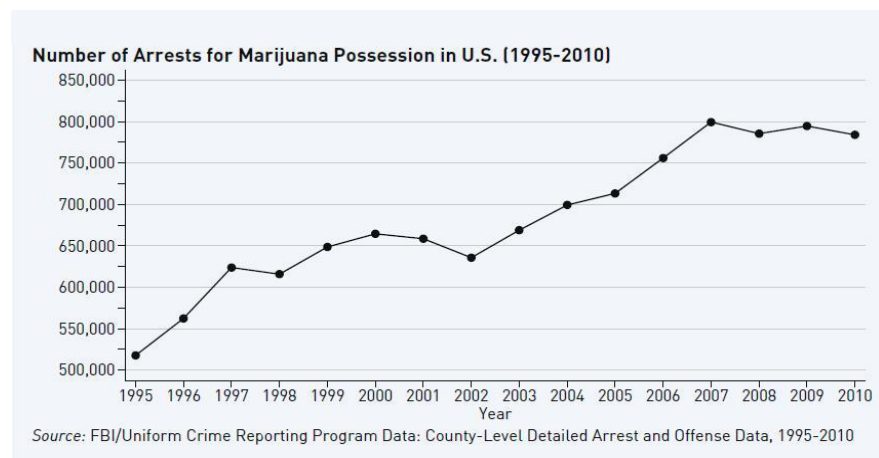
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## War on Marijuana

*Continued from page 1*

Anti-marijuana politics were suddenly tied to racist and xenophobic sentiments that some Americans felt towards the first wave of Mexican migrants. The economic collapse of 1929 further fueled resentment as Mexican laborers competed with out-of-work Anglos for agricultural work. These racial tensions, coupled with a growing nationwide momentum towards prohibition of intoxicants, ushered in a flood of anti-marijuana laws. The newly formed Federal Bureau of Narcotics (FBN) under the leadership of the notorious Harry J. Anslinger, encouraged state governments to crack down on drug use and pushed the 1937 Marihuana Tax Act through congress in 1937, making possession of marijuana illegal under federal law.



Under Anslinger’s direction, the FBN produced a great volume of anti-marijuana propaganda during this period, boldly listing “Murder! Insanity! Death!” among the many adverse side effects of marijuana use. The 1936 “educational” film Reefer Madness, a particularly ridiculous example of the marijuana fear mongering of the times, remains popular to this day as an unintentional camp classic.

Despite the cultural hysteria engendered around marijuana throughout the 1930s and 40s, relatively few people were arrested and incarcerated for its use. Even as recreational marijuana use became mainstream during the counter-culture movements of the 1950s and 60s, arrests for possession were comparatively low. In 1965, FBI statistics show that nationwide law enforcement officials made approximately two marijuana arrests per hour. In 2012, law enforcement officials made one marijuana arrest every 45 seconds.

What happened between 1965 and 2012 to cause this 40-fold increase in marijuana arrests? The War on Drugs. After President Nixon declared drugs “public enemy number one” in 1971, marijuana arrests doubled in three years. In 1986, President Reagan signed the Anti-Drug Abuse Act, instituting mandatory sentences for drug-related crimes and raising federal penalties for marijuana possession and dealing. Three years later, President Bush declared a “new War on Drugs” and threatened to withhold federal funding to states that did not ramp up their efforts.

Around this same time, a new zero-tolerance theory of policing involving heavy crack downs on even small infractions with the hope that more serious crime would drop correspondingly became increasingly popular in police departments throughout the country. High arrest rates suddenly changed from a metric indicative of high crime, to an indicator of successful law enforcement.

Marijuana arrests skyrocketed. The U.S. Department of Justice reports that between 1990 and 2010, there was a 188% increase in the number of people arrested for marijuana offences and a 52% increase in the number of people in state prisons for drug offenses. Today, marijuana arrests account for over half of all drug arrests in the United States.

But even more disturbing than the rate at which we arrest and incarcerate people for marijuana possession is who we are arresting. In June 2013, the national ACLU released an exhaustive report, *The War on Marijuana in Black and White*, that highlights the jaw dropping racial disparity in the enforcement of marijuana laws. Some of its findings show that:

- Despite the fact that marijuana is used at comparable rates by whites and blacks, a black person is 3.73 times more likely to be arrested for marijuana possession than a white person.
- In states with the worst disparities, blacks were, on average, over six times more likely to be arrested for marijuana possession than whites. In the worst offending counties across the country, blacks were over 10, 15, even 30 times more likely to be arrested than white

residents in the same county.

- In 96% of counties with more than 30,000 people in which at least 2% of the residents are black, blacks are arrested at higher rates than whites for marijuana possession.

From these numbers we can see that the War on Marijuana has largely been a war on people of color, serving as a vehicle for police to target communities of color. This war has not been cheap; the report found that states spent over \$3.61 billion dollars enforcing marijuana possession laws just in 2010. For that same year, the ACLU estimates that New

Mexico spent over 11 million dollars enforcing marijuana possession laws.

Marijuana laws in New Mexico, while less draconian than some states (in Louisiana a first time possession offense can land you in prison for six months), still funnel people into the criminal justice system who in reality pose no significant danger to society or themselves. Under a law passed in 2007, marijuana is legal for medicinal use under the strict regulation of the New Mexico Department of Health, but marijuana possession without a medical license remains a criminal offense. Possession of one ounce or less of marijuana is punishable by a \$50-100 fine and up to 15 days in jail. A second offense, or a conviction for possession of more than an ounce, is punishable by a fine up to \$1,000 and a prison sentence of up to one year.

Our state is not immune to racially biased enforcement of marijuana prohibition either. In 2001, a black person was 1.5 times more likely to be arrested for marijuana possession than a white person in Bernalillo County. By 2010, that disparity grew 162% with blacks 3.9 times more likely to be arrested for possession than a white person. Given the way racial data is collected in New Mexico, it is highly likely that racially biased policing is an even bigger problem than these numbers suggest. In New Mexico, Hispanics and Latinos are included in with “whites” when officers file arrest reports, meaning that it is difficult to tell whether non-Hispanic white people are arrested for marijuana violations at the same rate as the Hispanic population. However, given the arrest data the ACLU collected in New York where Latinos are recorded separately, it seems likely that Hispanics in New Mexico would be targeted at rates higher than other segments of our population. In Manhattan alone, Latino arrest rates for marijuana possession were nearly five times that of whites.

The ACLU report recommends several ways we can halt the damage that continued marijuana prohibition inflicts on families and communities. Legalization is the ideal path to end targeted enforcement of marijuana laws in communities of color and reduce enforcement costs while generating additional revenue. If New Mexico were to legalize the recreational use of marijuana for persons 21 or

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# Executive Director’s Notes

## The Real Story on REAL ID



PETER SIMONSON  
Executive Director

As sure as chiles will roast and hot air balloons will ply the skies above Albuquerque, next fall Governor Susana Martinez will warn New Mexicans that we must amend our state law allowing immigrants to get driver’s licenses or run the risk of being barred from commercial aircraft and federal facilities. After four straight years, the refrain has become as predictable as the changing of the seasons. And yet, year after year, the warnings turn out to be hollow as federal authorities once again defer requirements for states to comply with the federal REAL ID Act, a law that seeks to transform state driver’s licenses into a comprehensive national ID card.

Congress passed the REAL ID Act in 2005 as a rider to a “must-pass” bill that provided emergency appropriations for the Iraq War and tsunami relief. Despite its sweeping implications for personal privacy, the Act received not a single hearing in the Senate. Among other things, REAL ID requires driver’s licenses to contain common machine-readable technology and forces states to share their motor vehicle databases with federal authorities and other states. It expands and standardizes the identification requirements for obtaining driver’s licenses and requires

states to verify with the issuing agency the validity of each identifying document. The ACLU and other organizations have argued that the card could become an “internal passport” used to track Americans’ movement and control what buildings, services, and businesses they can access.

For these reasons, as well as the tremendous costs to implementing REAL ID, twenty-five states have passed laws or resolutions refusing to comply with REAL ID. Would the Department of Homeland Security really take a hard line on compliance and bar half of the country from flying on commercial airlines? The evidence suggests they would not. Since REAL ID’s passage, DHS has extended, deferred or otherwise delayed the deadlines for compliance five different times, in 2007, 2008, 2011, 2013 and, most recently, in January 2014. REAL ID is a bad law that not even the federal government has the will to implement. To quote the ACLU’s top experts on the matter, “REAL ID is dead.”

So, why then is Governor Martinez so exorcised over New Mexico’s noncompliance? Only to make good on her campaign promise of eliminating immigrants from driver’s license eligibility. Beyond that, she doesn’t seem to care. This fact was confirmed during the recent legislative session during which the Governor opposed a bill that would have allowed New Mexicans to obtain a REAL ID identification card independent of their New Mexico driver’s license. The bill would have complied with federal law yet allowed the state to keep its driver’s license scheme.

No, for the Governor, REAL ID is just a convenient excuse to pressure the legislature to make life even harder for immigrant families in New Mexico than it already is. So when the dire warnings begin to issue from Santa Fe next fall, feel free to ignore the Governor’s warnings and devote your attention to more pressing questions. Like “red or green” or the wind conditions at Balloon Fiesta Park.

## RCBR Asks Border Residents to ‘Raise Your Voice’

In February, the ACLU-NM Regional Center for Border Rights and the ACLU of Texas launched the Revitalize Not Militarize “Raise Your Voice” campaign to document how border militarization affects quality of life for community members in Southern New Mexico and Texas.

As part of immigration reform, the U.S. Congress is discussing legislation that would affect community members who reside within 100 miles of the southern border. This could mean additional drone surveillance, more checkpoints, more border agents in our communities than police officers, and the continued erosion of the civil and human rights of New Mexicans and Texans.

“We want to document the effects of militarization on our communities and how there is a need for more accountability and oversight of existing border enforcement resources,” stated Vicki B. Gaubeca, director of the Regional Center for Border Rights at the ACLU of New Mexico. “Instead of continuing to spend billions of dollars on border enforcement, Congress should invest taxpayer’s dollars in areas it is needed most, like jobs, education and health care.”

“The border is a place where people live, work and play, and it serves as a cornerstone for our society,” said Terri Burke, executive director of the ACLU of Texas. “We seek greater respect for border residents and families, whose



REVITALIZE  
NOT MILITARIZE  
BORDER COMMUNITIES

values should not be sacrificed in the name of national security. Those of us who are engaged on the border know it is secure.”

The “Raise Your Voice” campaign asks community members to report if they feel they have experienced racial profiling or civil and human rights violations by local police or immigration officials. Over the next few months, the ACLU-NM Regional Center for Border Rights and ACLU Texas staff and volunteers will travel throughout southern New Mexico and West Texas to educate community members about their rights and to document cases of abuse.

To participate or for more information, call the ACLU of New Mexico at **575-527-0664** or send an email to **ciosso@aclu-nm.org**. Reports can be made anonymously and can be made in English or Spanish.



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## THE WAR ON MARIJUANA IN BLACK AND WHITE

### Want to learn more?

Visit the ACLU website to read more about racially biased enforcement of marijuana laws, view interactive presentations illustrating the failed war on marijuana, and hear the stories of real people whose lives have been affected by draconian marijuana laws.

You can also download the whole War on Marijuana in Black and White report in pdf format.

[www.aclu.org/billions-dollars-wasted-racially-biased-arrests](http://www.aclu.org/billions-dollars-wasted-racially-biased-arrests)



## War on Marijuana

*Continued from page 2*

older through a system of taxation, licensing, and regulation, not only could we reduce the number of non-violent drug offenders we incarcerate, but police resources could be diverted to focus on more serious crimes. Legalization also allows the government to tax and regulate the sale of marijuana, which would raise much needed revenue for the state. Initial estimates project that Colorado raised up to 3 million dollars in sales taxes in just the first month it was legal to sell marijuana to recreational users.

Legalization has the added benefit of cutting off a major source of income for organized criminal gangs by taking the production, distribution, and sale of marijuana out of the illicit market and placing it the hands of legitimate businesses. These businesses will be forced to compete within a government regulated marketplace, reducing the violence that accompanies competition in the criminal marketplace.

If legalization is not feasible, decriminalization is a strong second option. Decriminalization involves removing all criminal penalties for the possession and consumption of small quantities of marijuana. Often possession is instead made a civil penalty, punishable by a small fine akin to a traffic ticket. Since most marijuana arrests are for possession of small amounts, decriminalization would share many of the same benefits of legalization. More police resources could be devoted to preventing and investigating serious crimes, fewer nonviolent marijuana users would be caught up in the criminal justice system, and the state would save money by not prosecuting and incarcerating marijuana users.

The state of California decriminalized marijuana in 2011 when it implemented Senate Bill 1449, which reduced the punishment for simple marijuana possession from a misdemeanor criminal offense to a civil infraction punishable by a fine of no more than \$100. In just the first year of de-

criminalization alone, data from the California Department of Justice's Criminal Justice Statistics center revealed a 20 percent decrease in overall youth arrests and a 60 percent decrease in marijuana arrests.

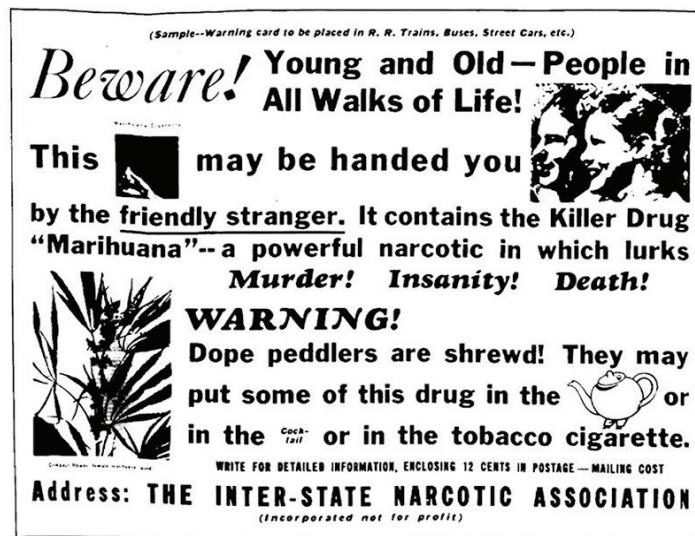
Though it alleviates many of the negative effects of prohibition, decriminalization still leaves the production and distribution of marijuana in the illicit market where it would further enrich criminal gangs rather than swell state coffers.

If decriminalization is not feasible, deprioritization is a step in the right direction. Many states and municipalities throughout the U.S. are proactively making the enforcement of marijuana possession laws their lowest priority.

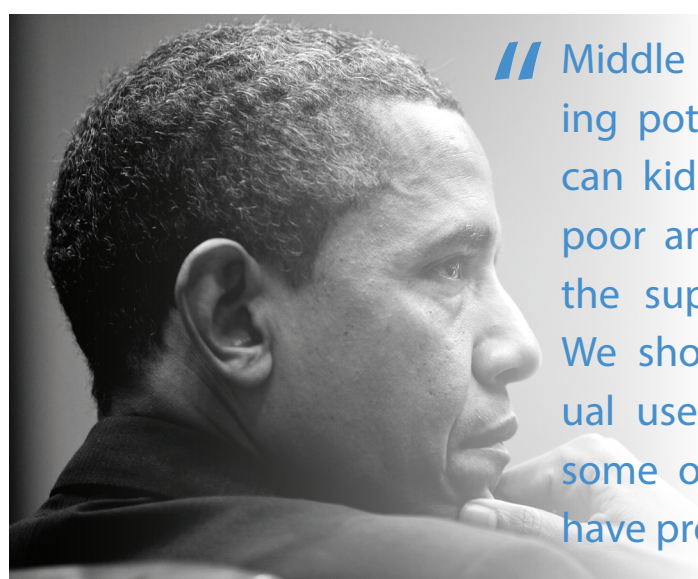
By any measure, the War on Marijuana—and the War on Drugs at large—has been a spectacular failure. We waste billions of dollars enforcing laws that unfairly target communities of color and do nothing to reduce the rate of use. Even though the United States only has

5% of the world's population, it houses 25% of the world's prison population, most of whom are incarcerated for non-violent drug crimes. But it's not too late to reduce the injustice and societal damage caused by the failed War on Marijuana, and we can start making those changes right here in New Mexico. We can work in our local communities to put pressure on police departments to prioritize serious crime over simple marijuana possession. We can ask our city councils to decriminalize marijuana and make possession a civil infraction the equivalent of a traffic ticket. We can urge our state legislators to follow the example set by Colorado and Washington and tax, license, and regulate marijuana like alcohol.

It will take a tremendous amount of work to reverse the damage our War on Drugs has wrecked upon our society. Dismantling the War on Marijuana here in New Mexico is an important first step into a future where addiction and substance abuse is treated with compassion as a public health problem, where people of color are more than police targets, where substance users are treated like human beings, not jail filler.



*Federal Bureau of Narcotics public service announcement used in the late 1930s and 40s.*

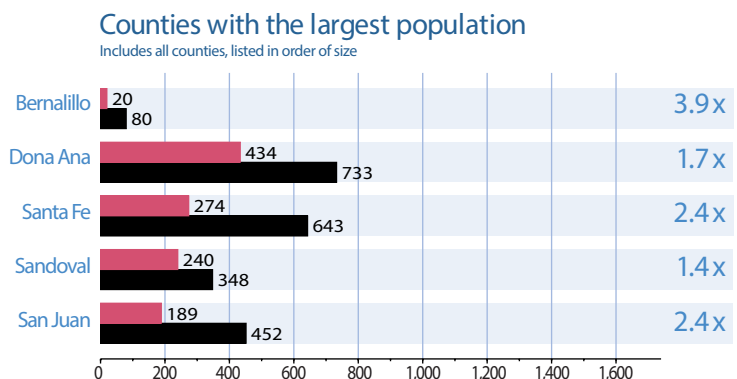
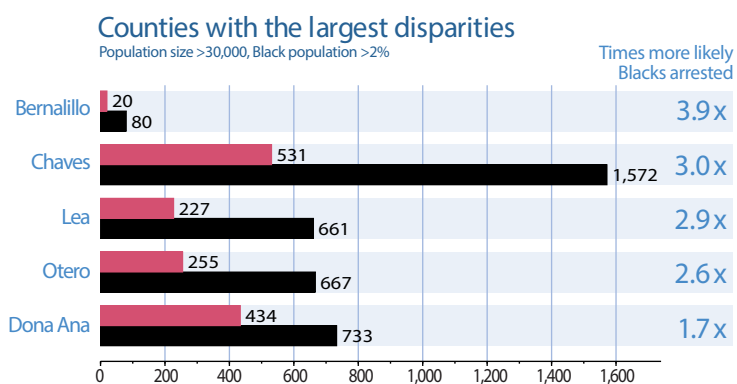


“Middle class kids don't get locked up for smoking pot, and poor kids do. And African-American kids and Latino kids are more likely to be poor and less likely to have the resources and the support to avoid unduly harsh penalties. We should not be locking up kids or individual users for long stretches of jail time when some of the folks who are writing those laws have probably done the same thing.”

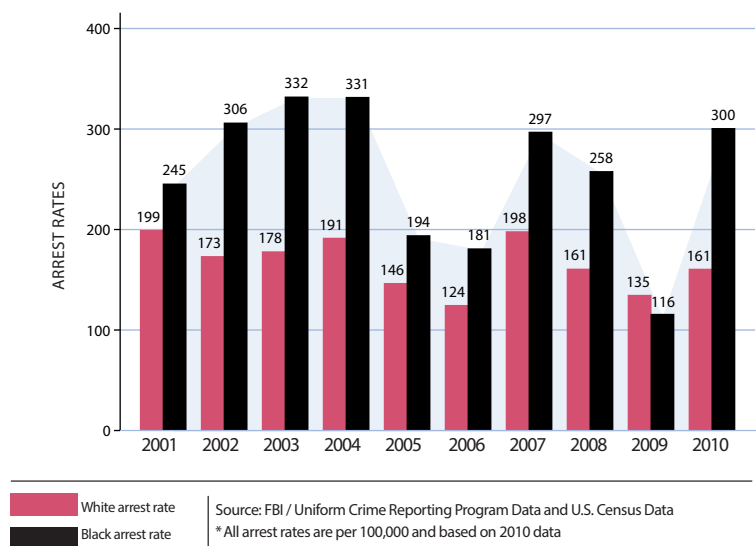
- President Barack Obama

# New Mexico

## Racial Disparities In Marijuana Possession Arrest Rates\*



## Statewide marijuana possession arrest rates 2001-2010

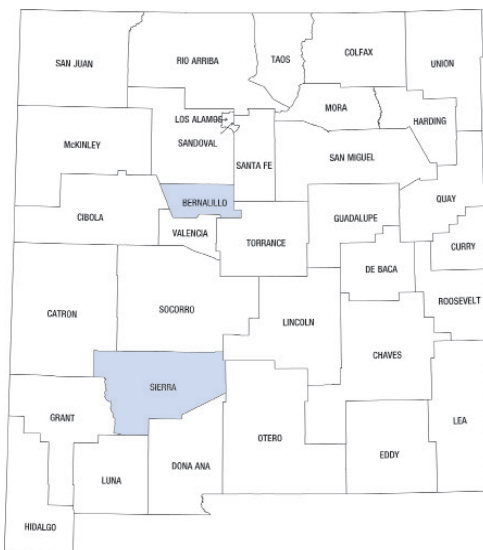


Blacks are **1.9** times more likely than whites to be arrested for marijuana possession

## Arrest Rates



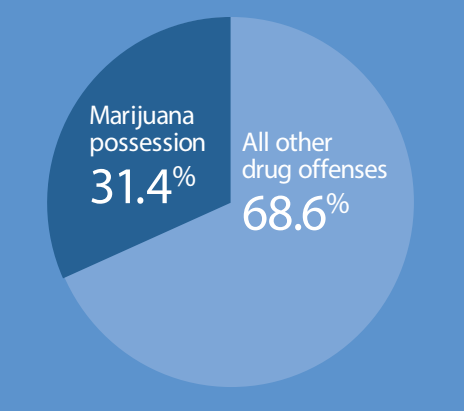
All counties with racial disparities above the national average (3.73)



## Cost

Money spent enforcing marijuana possession laws in 2010 ....: **\$11,079,450**

## Drug Arrests by Offense in 2010



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## Two Major Victories

Continued from page 1

Just a few weeks after the ACLU of New Mexico's historic marriage victory, the Bernalillo District Court handed down its decision in the ACLU of New Mexico and Compassion & Choices' lawsuit seeking physician aid in dying. In her ruling the judge wrote:

*This Court cannot envision a right more fundamental, more private or more integral to the liberty, safety and happiness of a New Mexican than the right of a competent, terminally ill patient to choose aid in dying. If decisions made in the shadow of one's imminent death regarding how they and their loved ones will face that death are not fundamental and at the core of these constitutional guarantees, than what decisions are?... The Court therefore declares that the liberty, safety and happiness interest of a competent, terminally ill patient to choose aid in dying is a fundamental right under our New Mexico Constitution.*

Because of this ruling New Mexicans, both healthy and sick, now enjoy the comfort and peace of mind that come with knowing they can prevent a prolonged, agonized dying process at the end of life. The court agreed that the New Mexico Constitution guarantees terminally ill patients

that they do not have to stay trapped in a dying process they find unbearable. This ability to make choices in the final stages of terminal illness matters deeply to New Mexicans like 50-year-old Santa Fe resident Aja Riggs, who was diagnosed with advanced uterine cancer and was the patient plaintiff in *Morris v. New Mexico*. Riggs is currently in remission, but realizes that statistically her cancer is likely to return.

"I am really pleased that the courts have recognized that terminally ill patients should have more choice in the manner of their death," said Riggs. "Knowing that I can choose a more peaceful and gentle death at the end gives me great comfort and peace of mind."

The Attorney General recently announced that he would appeal the decision, but the ACLU is committed to defending physician aid in dying all the way up to the State Supreme Court if need be.

2013 was an incredible year for the ACLU of New Mexico, and 2014 is off to a strong start. We look forward to opening up new fronts in the continuous struggle to protect and extend liberty in the State of New Mexico.

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## Share Your Appreciation with a Gift of Stock.

You can make a gift of appreciated stock to the ACLU of New Mexico Foundation while avoiding capital gains tax on transfers of securities held for at least one year and one day. You can also generally receive an income tax deduction for the current fair market value of the securities.

To make a gift of stock, share the following information with your broker.

DTC#: 0226
Account Name: ACLU of New Mexico Foundation
Account Number: 9050-0615
Brokerage: Charles Schwab Albuquerque, NM

Then, contact us with your name and the number and type of shares being transferred.

ACLU Contact: Ernest Rodriguez-Naaz
Phone: (505) 255 -5915 x1001
Email: erodriguez-naaz@aclu-nm.org

We will be happy to answer any questions you may have.

# A Conversation with Sallie Bingham

*Santa Fe resident Sallie Bingham is an accomplished author and playwright and one of the ACLU of New Mexico’s most loyal supporters. She recently sat down with Director of Philanthropy Ernest Rodriguez-Naaz to discuss the civil liberties issues close to her heart and why she chooses to support the ACLU of New Mexico’s work.*

**What first sparked your interest in the ACLU and how long have you been a member?**

Since childhood in the segregated South, I have been painfully aware of what I wouldn’t have known to call civil rights abuses but saw them around me every day.

**Growing up in your home-state of Kentucky, were there any issues that led to your interest in civil liberties?**

Segregated facilities were everywhere; the post office where I waited to be picked up for school had white and black drinking fountains, bathrooms, and waiting rooms. I noticed there was never anyone in the waiting room. I was in high school before I met an African American who was not a servant. And at the same time, I was acutely aware of the limitations on women’s possibilities; even privileged women.

**What do you see as major civil liberty issues in your new home-state of New Mexico? Why should other New Mexicans care about them?**

The dreadful state of immigration here, with so many people being snatched up and put in prison down south; continued problems over incarceration, particularly for minor drug offenses; failure on the part of the legislature to fund efforts to decrease deaths from drug overdoses.

**What makes these issues personal for you?**

Criminal justice reform is particularly personal for me because my youngest son is an addict who has spent time in jail and been severely affected by it.

**How has your work as a writer informed your philanthropy?**

*Sallie is currently working on a biography of Doris Duke to be released in 2015. Look for it, along with her other publications, at [www.amazon.com](http://www.amazon.com).*



Sallie, center, with ACLU-NM staff during Sallie’s recent visit to the ACLU-NM offices in Albuquerque.

I often write about those who are closed from opportunity, beginning with my first short stories about African American domestic servants. I often write from the point of view of those who struggle, especially women, and I teach the importance of using a political point of view in all writing, especially fiction. My philanthropy is related to these efforts.

**We realize you have many options for your philanthropy, why do you choose to support the ACLU of New Mexico?**

I choose to support the ACLU of New Mexico because of all the striking successes of many of your initiatives and the quality of your staff.

**What would you say to someone thinking about donating to the ACLU of New Mexico? Why should they invest in civil liberties?**

I would encourage others to support the ACLU of New Mexico because we cannot continue to function as a democracy if civil liberties issues are not addressed.





# 2014 ACLU Board of Directors Candidates

ACLU of New Mexico Board Members are elected to serve staggered three-year terms with a third of the positions becoming vacant each year. This year, the Board Administration Committee of the ACLU-NM Board of Directors has nominated six candidates to fill seven board openings. Because there is no competition for the openings, the Committee concluded that there is no need for a vote by the membership. We publish the candidate statements here to introduce the board members who shall begin three-year terms on April 1, 2014.

## ADRIANA RAMÍREZ de ARELLANO

In 2010, I addressed the members of ACLU-NM to offer my service as part of the Board of Directors, filled with excitement at the prospect of that opportunity. I address you again with a continued sense of commitment and much excitement, but now also feeling deeply proud and humbled by having collaborated with you all in the years since.

For nearly a century, almost every legal battle worth bragging about has counted on the ACLU either as counsel, supporter, or expert. The ACLU is second only to the Department of Justice in presenting arguments in the US Supreme Court. Next time you hear a policeman say “you have the right to remain silent” (in/off screen), join me in the pride of knowing that we are members of the organization whose amicus brief proposed that language to the courts.

Over the last 3 years, our New Mexico affiliate has secured civil rights at both the beginnings and ends of our lives through defending reproductive rights of pharmacy clients, educational rights of young parents, marital rights of same-sex parents, or the right to choose whether to be a parent at all... as well as defending a person’s right to receive medical assistance to terminate her suffering when afflicted by a terminal disease. Being part of any of these battles--and so many more-- is truly humbling. It is with this pride, awe, and with profound gratitude that I hereby offer to continue my service as member of the ACLU-NM Board of Directors.

It would be my honor and pleasure to once again be nominated and elected to the Affiliate Board of the ACLU-NM.

## KAREN BULLER

I grew up in a culture that demanded sharing and helping. It has always been part of my life to volunteer and help others. The expectation was that others would also help you when you needed it.

I have worked as an advocate and activist my entire life. After college I was the counselor for Native American students at the University of Nebraska. This was during the time of the Wounded Knee occupation and I was followed by the FBI and my home phone was tapped.

I worked as a professor at Haskell Indian Nations University at a time when almost every tribe in the United States was represented there. During that time I was elected Faculty of the Year by the Student Body. I helped students in many ways and today many of my former students are in leadership roles of their tribes or national advocacy organizations. After moving to New Mexico I volunteered in schools and served on the State board of the PTA and ran for local school board. I also lobbied in the state legislature for teacher and student rights. I wrote grants that supported local parent education. I also served as the local president of a National Native American parent board that supported a National Entitlement program for Native children in public schools.

During this time I was appointed by the governor to the state Commission on Higher Education and latter to the

Western Interstate Commission on Higher Education as the representative for New Mexico.

I wrote a grant to the National Science foundation and started a non-profit, National Indian Telecommunications Institute, a 501-C3 NGO that advocated for better telecommunications of Native communities, schools and tribes. I was also appointed to the Universal Service Administrative Company governing board. I have served on national boards such as the Eisenhower Educational Technology Initiative, Libraries for the Future, the Civil Rights Telecommunications Organization, Northern New Mexico ACLU and the Consumer Advisory Board of Verizon.

I have been in a position to speak for those who have no voice, or cannot speak. I continue to act from a desire to seek justice for the underserved and voiceless. I feel the American Civil Liberties Union is a strong platform from which to advocate for these individuals. I am pleased to help in this effort in whatever capacity I can.

## TOVA INDRITZ

I am a criminal defense lawyer, doing trials, appeals, and post-conviction remedy cases; I practice in federal and state courts and occasionally in Indian tribal courts. In my 39 years of representing accused persons who are presumed innocent, I have seen the ever-quickenig erosion of the Bill of Rights, especially the Fourth, Fifth, and Sixth Amendments. The U.S. now incarcerates a higher percentage of its population than any other country in the world, and we persist as the only Western country with the death penalty.

I have a particular interest in the harsh consequences of criminal convictions for non-U.S. citizens and was pleased to have successfully represented ACLU-NM before the New Mexico Supreme Court in a landmark case in 2004 which held that criminal defense lawyers must ascertain if their client is a U.S. citizen, determine the immigration consequences of the charges, and fully inform the client of those immigration consequences. Like other cases the ACLU of New Mexico undertakes, this case will help thousands of people for years to come. I have also been an ACLU-NM cooperating attorney in a criminal case at the trial level.

I am proud to have served on the Board of ACLU-NM since 1987, half the life of the ACLU of New Mexico, through at least five executive directors, and three office locations; I am now the longest-serving current board member. I have seen ACLU-NM grow from a staff of two people in one place to what we have now, a far more sophisticated operation in Albuquerque and Las Cruces. I have been an officer and member of various committees. When I was in law school, I spent one summer as a law clerk at the ACLU of Northern California.

I am a keen advocate of the First Amendment, especially the separation of church and state, and a strong believer in the Bill of Rights. I have sometimes spoken to community groups on behalf of the ACLU.

*Continued on next page*



## NEW STAFF

**Morgan Day**  
*Office Manager*



Morgan Day joined the ACLU of New Mexico in November of 2013, and serves as the Office Manager for the organization. After earning degrees in Political Science and French from the University of Tennessee, Morgan attended the Josef Korbel School of International Studies at the University of Denver, graduating in 2013 with an M.A. in International Development, and a concentration in Sustainable Agriculture and Food Security. She has previously worked in research and community education roles at the Howard H. Baker Jr. Center for Public Policy in Knoxville, TN and the World Food Prize Foundation in Des Moines, IA, with specific focuses on civic education, food justice, and anti-poverty movements. In her free time, Morgan enjoys preparing elaborate meals, taking in live music, and staying current on world events.



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Board Candidates

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I recognize the need to pay attention to the structure and finances of our organization as well as our important programmatic work. I try to be prepared for each board meeting and proactive. I believe we should have diversity, including more women and minorities on the board. I advocate long term planning, where the board deliberately sets our goals for issues, even though we often take up opportunities that come along. We have met some of our long terms goals, such as abolition of the New Mexico death penalty, and more recently the right of same-sex couples to marry. Now we need to hold those victories while we move on to other civil liberties goals.

Eternal vigilance continues to be the price of liberty!

GARY C. MITCHELL

The Great Defender of Liberty is the ACLU. Historically, no organization has shown as much courage, persistence and determination as the ACLU and that is certainly true in New Mexico. It has been an honor to be involved as a member, director and an officer of the ACLU-New Mexico for many years and I would like to continue that work provided the members agree.

My entire career as an attorney has been devoted to the protection of liberty and civil rights. I have worked for over thirty-five years as a representative of the oppressed and the indigent. I would like to believe my fight against the death penalty, for children’s rights, for help for the mentally ill, for immigrants , for the imprisoned and for the falsely accused shows my passion, courage and strength.

ACLU-New Mexico is a force to be reckoned with and I would like to continue to be a part of it. In New Mexico ACLU is needed now more than ever.

FRANK SUSSMAN

Over the past many years and continuing to date, I have served as President of the Northern Chapter of the ACLU/ NM. Previously, I served as a Board Member for over 25 years and as President of the ACLU/EM and I served for ten years on the ACLU National Board.

I have been practicing law for over 47 years and I continue in a semi-retired capacity as senior trial counsel, trying major civil litigation matters and handling appeals around the country for a 150+ attorney, mid-western law firm.

I have acted as chief trial counsel in over 20 different state and federal district courts jurisdictions; and as appellate counsel in over 153 appeals, including: Eight appeals before the United States Supreme Court (having briefed and argued five cases, having co-authored briefs in two additional cases and having served as co-counsel during argument in one additional case); 57 appeals before the United States Circuit Courts of Appeal for the Sixth, Seventh and Eighth Circuits (each briefed and argued); Ten appeals before the Missouri Supreme Court (having briefed and argued eight cases and having co-authored the brief in one additional case); And 78 appeals before the Courts of Appeal of Missouri and Illinois (each briefed and argued).

I have been semi-retired in Santa Fe for over nine years, during which time I have continued to undertaken assignments from both federal and state law enforcement agencies, including the U.S. Department of Justice (having retired as a Lieutenant Colonel of Police, with specialized homicide training), to undertake creative advertising and promotional assignments for a New York City ad agency and to undertake pro bono, civic assignments from Santa Fe County, including serving as Chair of its Corrections Advisory Committee.

More Evidence of Solitary Confinement Abuse in New Mexico

Morgan Day, Office Manager

Abuses and inhumane use of solitary confinement in New Mexico reached national headlines again this February, when 51-year-old Jan Green reached a \$1.6 million settlement with Valencia County after spending almost two years in solitary confinement with no access to proper care, and no trial. Green, who suffers from bipolar disorder, was allegedly confined to a 7 by 8 foot cell with no bed and no access to mental health professionals or medication to treat her condition. This comes on the heels of Stephen Slevin’s high profile case, in which he too was subjected to inhumane solitary confinement conditions within New Mexico’s corrections facilities.

Apart from the fact that solitary confinement has negative consequences for the general population—solitary confinement is both costly for taxpayers and has been shown to increase aggressive and violent behaviors in inmates—this type of isolation has severe impacts on the individuals subjected to its practice. Green and Slevin’s cases provide disturbing, if not enlightening, examples of trends that seem to be emerging throughout New Mexico’s prisons and jails. Both Slevin and Green complained of conditions which showed a complete lack of respect for basic human decency. Slevin developed bedsores and a fungal infection, and was forced to extract his own tooth when denied dental care. Green was provided a floor mat instead of a bed, developed sores on her feet that were left untreated for so long that her sock rotted into the wounds, and was allegedly denied sanitary napkins during her menstrual periods.

Though these inhumane conditions may not be emblematic of every prisoner’s experience with solitary confinement in New Mexico, poor access to basic necessities and health care only adds to the negative psychological and emotional impacts of prolonged confinement. The 2013 joint publica-

tion “Inside the Box: The Real Costs of Solitary Confinement in New Mexico’s Prisons and Jails” by The New Mexico Center on Law and Poverty and the ACLU of New Mexico shows that “corrections and mental health experts agree that prolonged periods of sensory deprivation in the corrections setting can have deeply detrimental effects on prisoners’ mental health, tantamount to torture.” Prolonged solitary confinement—meaning confinement over 30 days—has been proven to take an emotional toll on prisoners with no prior mental health issues. Those with mental illness suffer at greater levels when subjected to isolation and lacking medical treatment.

The final common thread connecting cases like Ms. Green’s and Mr. Slevin’s is the seeming lack of due process afforded to those within the corrections system. Both Green and Slevin were arrested on legitimate charges (Green was accused of domestic violence, and Slevin of drunk driving) and were held as pre-trial detainees. But, their charges were later dismissed. Neither received a trial during their incarceration, and neither was ever sentenced to a prison term. Prisoners in similar situations are often unable to advocate on their own behalf once in the system, whether due to lack of legal education or due to complications as a result of mental illness. It is unfortunately likely that other prisoners will emerge after having been forgotten or overlooked within New Mexico’s prison system.

The New Mexico Corrections Department is currently undergoing a voluntary assessment by the Vera Institute for Justice to better understand how solitary confinement is being used in New Mexico’s jails and prisons, and to receive recommendations for change designed to reduce the number of prisoners in long-term confinement.