



the TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

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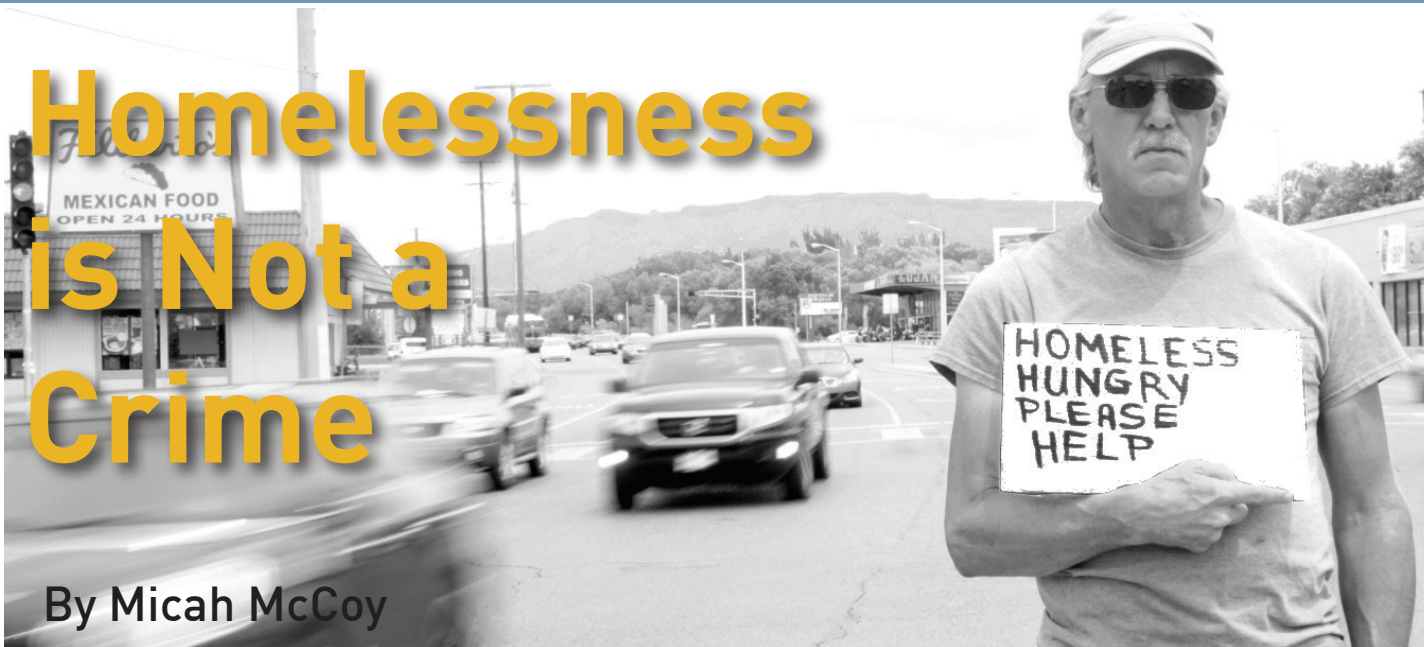
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Homelessness is Not a Crime

By Micah McCoy



“HOMELESS HUNGRY PLEASE HELP,” reads the sign that Jeff Seymour holds for a few hours every day as he stands at a busy intersection on Albuquerque’s west side.

Jeff, 58, a long-haul truck driver for more than 20 years, a U.S. Army veteran, and former federal police officer, has been homeless now for a little over a year. After leaving a hostile work environment in his last job driving for a trucking company in El Paso, he came to Albuquerque in search of better pay and more acceptable working conditions. But the jobs didn’t materialize. After a couple months, his money ran out and he found himself living out of his van, panhandling in order to survive while he searched for work.

He thought it would be temporary, something he had to do for a few weeks until he landed his next gig. It might have gone that way too, but Jeff found himself trapped on a de-stabilizing merry-go-round of criminal citations, arrests, and police harassment that has made rejoining the ranks of the employed all but impossible.

His crime? Standing in public with a sign that says, “Homeless, hungry. Please help.”

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ACLU-NM Lawsuit Ends Testing Gag Rule

By Micah McCoy

When it comes to public education, no topic is more controversial than standardized testing. According to a study recently released by the Council of Great City Schools, students take about 112 mandatory standardized tests between pre-k and high school graduation and spend 20 to 25 hours a year preparing for the tests. Not only is the proliferation of standardized testing controversial due to the large and ever increasing amount of classroom instruction time devoted to preparing for the tests, but also because of the high stakes attached to many of the tests. Schools, districts, and teachers themselves are judged based upon how well their students perform on these tests, and can face serious consequences if their scores slip. Districts can get downgraded based on their scores. In some places a school can lose funding if their scores suffer. Teachers’ raises and performance reviews are increasingly dependent on how well their students do on these standardized tests.

As our public education system becomes more driven by standardized testing, a robust public debate



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Homelessness Is Not a Crime

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Criminalizing the Poor

In the United States, there is a quiet but vicious war being waged against poor people. It often goes something like this: a woman who can't afford to fix her taillight gets pulled over by the police and cited. She can't afford to pay the ticket, so she gets fined by the court. She misses a court date because her childcare fell through at the last minute and gets slapped with a "failure to appear" misdemeanor. The fines pile up, become insurmountable, and ultimately a bench warrant is entered for her arrest. She gets pulled over again for driving with a busted taillight, and is arrested. Unable to post the \$100 bond, she languishes in jail for weeks and loses her job as a consequence, and perhaps her housing too.

It happens day in and day out in cities and towns all over our country. People already living on the edge are ground down by the callousness of our justice system and thrown into jails that have become modern day debtors prisons. Over the past decade, the ACLU affiliates—including the ACLU of New Mexico—have led the fight against this trend, launching campaigns exposing courts that illegally and improperly jail people too poor to pay criminal justice debt, and seeking reform through public education, advocacy, and litigation.

While nothing in New Mexico or Albuquerque's criminal code explicitly says that it is a crime to be poor, the effect and even the intent of some laws couldn't be clearer. In 2003, the Albuquerque City Council passed an anti-panhandling ordinance that would have prohibited, among other things, anyone from asking for money in the popular Downtown and Nob Hill neighborhoods, as well as panhandling from dusk until dawn in all other parts of the city.

The ACLU of New Mexico sued, claiming the law was a blatant violation of free speech rights, and won a restraining order that barred the City of Albuquerque from implementing the ordinance. While we were successful at stopping this law that explicitly targeted the poor and unfortunate, the City has continued to employ more subtle means of forcing homeless people and panhandlers out of public spaces.

Catch-22

The police started to harass Jeff almost immediately after he started panhandling. Officers yelled at him and told him to leave the area, and when that didn't work they threatened him with citation and arrest. One officer even confiscated his cardboard sign. Most of the time, Jeff stood his ground and refused to leave, knowing that he wasn't doing anything wrong.

But some of the officers disagreed. They started issuing Jeff citations for infractions such as "criminal trespass," "wrongful use of public property," "pedestrian on roadway," and violations of the city's "Safety in Public Places Ordinance."

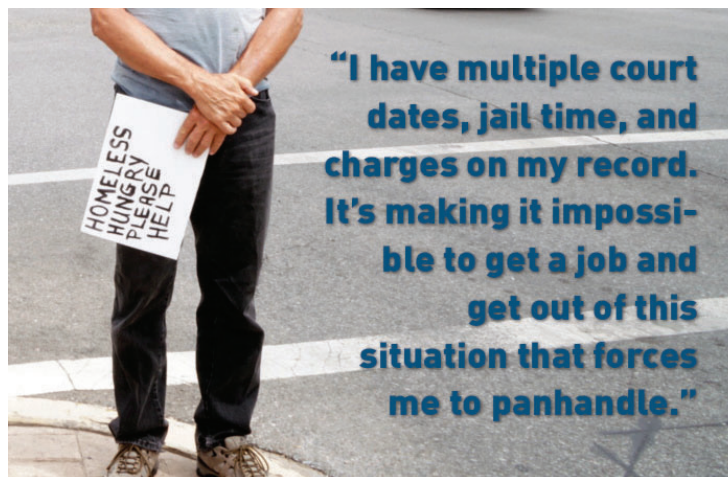
The citations piled up for Jeff, more than a dozen in just a few months. Multiple pending charges, jail time, and court dates made it impossible to leave town, which a long-haul trucker must do for weeks at a time in order to work.

"I have multiple court dates, jail time, and charges on my record," said Jeff. "It's making it impossible to get a job and get out of this situation that forces me to panhandle."

To date, courts have dismissed every single one of Jeff's citations, nearly 20 in total. Most of the time, the citing officer didn't bother to show up to the hearing.

Under Arrest

Jeff was first arrested in January 2016, and booked into the Bernalillo County Metropolitan Detention Center on a misdemeanor charge of "Refusing to Obey or Comply with Police Officer"—except the arresting officer made a typo on the citation, accidentally turning the charges into a felony crime of "Unlawfully Carrying a Deadly Weapon." All charges were dismissed eventually after the officer failed to appear, but the erroneous charges complicated his release process.



Less than a week later, Jeff was back in jail again on charges of Criminal Trespass, Wrongful Use of Public Property, and being a Pedestrian on a Roadway. When Jeff contested the officer's claim that standing in the median was "wrongful use of public property," the arresting officer told Jeff that he could decide on the proper use

of public property, and that in his "opinion" Jeff could not panhandle on a median. Unable to pay the \$100 bond, he remained incarcerated for fourteen days until a court dismissed the charges against him.

Police arrested Jeff again in late April for the same handful of petty misdemeanors, and again he languished in jail for 15 days until a local ACLU member, learning of his plight, posted his bail.

Fighting Back

Jeff finally reached his limit and started to record his police encounters with the ACLU of New Mexico Mobile Justice app, the free smartphone app that helps people safely and securely record the police, and reached out to the ACLU of New Mexico for help. Two days after his arrest on April 25, the ACLU of New Mexico filed a lawsuit against the City of Albuquerque and the officer who twice arrested him on bogus charges.

The lawsuit alleges that the City is violating Jeff's right to solicit donations by panhandling, which is protected under the Free Speech Clause of the New Mexico State Constitution. The complaint also alleges that the arrests were unconstitutional, conducted without probable cause or any other legal justification. Furthermore, the ACLU of New Mexico asserts that these are not the actions of just a few rogue officers, but instead represent an unconstitutional policy, custom and practice of harassing panhandlers put in place by the City.

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Executive Director's Notes: A One Man Constitutional Crisis



Even we were surprised by the response to our offer. In a few short days, the ACLU distributed over 100,000 of the pocket-sized Constitutions, free of charge, reaching people in every state in the country and beyond. Of course, we offered the blue booklets in response to Khizr Kahn's challenge to presidential nominee Donald J. Trump at the Democratic National Convention: "Have you ever read the U.S. Constitution? I will gladly lend you my copy."

It would be easy to assume that people ordered our Constitutions to educate themselves about the wording of the document. But I have a different theory...

One would have to scour the annals of American history to find a presidential candidate who has more widely spurned the guarantees of the U.S. Constitution than Donald Trump. Take, for example, Trump's pledge to deport 11 million undocumented immigrants within two years of taking office. Experts agree that such an undertaking would require the U.S. to become a veri-

table police state. As ACLU Executive Director Anthony Romero explained in a recent op-ed in the Washington Post, "immigration agents would have to engage in suspicionless interrogations and arrests, unjustified traffic stops, warrantless searches of workplaces and homes, and door-to-door raids in immigrant neighborhoods. There can be little doubt that agents would rely on racial profiling and target people of Latino and Hispanic descent disproportionately..." It's hard to imagine that such a whole-sale suspension of civil rights and liberties wouldn't touch all segments of American society.

But clearly a large number of Americans are willing to make that sacrifice in order to restore our country to some imagined former state of glory—to "Make America Great Again." Some 13 million Americans put Trump at the head of the Republican Party ticket, and many more will vote for him in November. America stands a decent chance of electing a leader who will address the country's most thorny challenges without any regard for due process, equal protection under the law and guarantees against warrantless searches.

Perhaps some people ordered the ACLU's Constitutions to remind themselves of lessons they'd learned in grade school history classes. But I'm betting that an even larger number ordered them to reaffirm the principles that truly Make America Great: not cultural dominance by one racial group, but "life, liberty and the pursuit of happiness."

Trying to win an election is no excuse to disregard or dismiss the Bill of Rights. Together we must speak up, stand up, call out and hold elected officials accountable to the Constitution.

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Homelessness Is Not a Crime

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ACLU-NM plaintiff Jeff Seymour used the Mobile Justice NM app to document police harassment. Since ACLU-NM launched the app in November 2015, more than 2,600 New Mexicans have downloaded the app to their smartphones. The Mobile Justice NM app is available for free download from the Apple App Store and Android Market.

After Jeff was released from jail in May, the ACLU of New Mexico went public with Jeff's story, securing a front page story in the Albuquerque Journal and an exclusive TV interview exposing the mistreatment he suffered at the hands of APD.

A Better Way

As this article is being written, Jeff has just been released from jail yet again, where he was held on charges of obstructing movement of traffic. Again, he was jailed for nearly two weeks for this petty misdemeanor because he could not afford the \$100 bond.

Our society has to find a better way to deal with issues of homelessness and panhandling. Criminalizing the poor and homeless doesn't solve anything. We've got to stop trying to incarcerate our way out of every problem we face, because as Jeff Seymour will tell you, we're only making a bad situation worse.

Southwestern Chapter News

One year ago, the Southwestern Chapter went before the Grant County Commission with several hundred signatures on a petition requesting that a civilian oversight committee be established to monitor the county detention center and to advise the Commission on its operation. (The necessity of such a committee became apparent following the Affiliate's need to send a Tort Claims Notice and Demand Letter insisting on the provision of medical services for a detainee.) The SW Chapter offered to work in a cooperative effort to establish such oversight, but the county declined to participate and we eventually drafted the necessary resolution on our own.

That resolution was denied with little discussion during a session this past spring. Following the refusal by the Grant County Commission to approve a resolution we prepared, it was determined that we would continue to do outreach to the community to further our efforts. Candidates currently running for commission have come out in support of the detention center oversight committee, and we continue to keep the issue visible through publishing an opinion piece and conducting outreach at our 4th of July booth in the park. In the meantime, a small dedicated group of volunteers continue to make visitations to the jail.

SW Chapter Annual Meeting

Mark your calendars now for Friday, October 28; our chapter will hold its Annual Meeting at the Woman's Club in Silver City. The topic of the meeting will be, "Civil Liberties and the Supreme Court," where we will discuss the implications of the upcoming presidential election on the makeup of the court.

If you are interested in becoming involved with the ACLU-NM SW Chapter, contact William Hudson at 575 536 3092 or williamhudson32@msn.com.

A Brighter Future after HB2: A Q&A with ACLU-NM Reproductive Rights Attorney Erin Armstrong

By Rachael Maestas



Scenes captured by ACLU-NM attorney Erin Armstrong (Right with Dr. Willy Parker) on June 27th outside the U.S. Supreme Court the day of the HB2 decision.

In 2013, Texas passed HB2 despite tremendous efforts to block it by Senator Wendy Davis and others. Can you tell us what that law did?

Laws like Texas' HB2 are commonly referred to as "TRAP" laws (Targeted Regulation of Abortion Providers). TRAP laws single out medical providers of abortion services and subject them to onerous and medically unjustified requirements that are more burdensome than those imposed on other medical practices.

In reality, we know that TRAP laws like HB2 are insidiously designed by abortion opponents to close clinics. And, unfortunately, they have been very successful at doing just that. Together, the HB2 requirements forced over half of the clinics that provided abortion in the state of Texas to close. Ultimately, once fully implemented, the law would have forced the closure of more than three-quarters of Texas' abortion clinics, threatening to leave only nine clinics in a state with 5.4 million women of reproductive age.

In March of this year, the United States Supreme Court heard arguments to challenge this very law. You were at those arguments. Can you tell us what that was like, and what the Supreme Court was deciding in this case?

Yes! On the morning of March 2nd, after many cold and rainy hours in line in front of the Supreme Court, I was lucky enough to be in the courtroom for the oral arguments in *Whole Women's Health v. Hellerstedt* – the case that challenged (and ultimately struck down!) the unnecessary requirements of Texas HB2.

The energy outside of the Supreme Court on that March morning was electric and inspiring! A huge crowd of people gathered at dawn from all across the country to voice their deep outrage over sham laws that do nothing to protect a woman's health, but do prevent her from accessing the care she needs. For me, as a woman and an attorney, the highlight was watching and listening to the absolutely brilliant women in the room – Stephanie Toti from the Center for Reproductive Rights, who argued on behalf of the Texas providers challenging the law, and of course, Justices Ginsburg, Kagan, and Sotomayor!

After months of waiting, we learned the Supreme Court's decision this past June. What did they decide?

On June 27th, in a decisive ruling, the Supreme Court struck down the Texas HB2 requirements as uncon-

stitutional—both the mandate that Texas abortion providers have admitting privileges at local hospitals, and the requirement that clinics be licensed as mini-hospitals. The Court simply looked at the abundant evidence and recognized Texas HB2 for what it was: a law that does nothing to protect women's health and instead imposes unnecessary, often insurmountable, barriers in the path of a woman seeking an abortion.

You were at the Court for this historic moment too! How did that feel?

It was incredible! Of course, the Court's decision was a huge relief, but also tremendously validating for those of us fighting to make sure that the promise of *Roe v. Wade* is actually realized. I was fortunate enough to be at the Supreme Court again on the day that the decision was announced, but this time, I wanted to be outside with the crowd! When the Court's decision was announced, the crowd erupted in pure joy—there was dancing, cheering, and more than a few happy tears.

How is this decision already making an impact? What are the implications of the ruling going forward?

In *Whole Women's Health*, the Supreme Court made it crystal clear that states can't just rely on flimsy justifications when passing and defending laws that restrict access to abortion. And while the Court's decision didn't automatically invalidate the more than 300 abortion restrictions that have been passed around the country since 2010, it made it easier for us to challenge them. Already, we're beginning to see the impact. For example, courts have permanently struck down unnecessary and harmful admitting privileges requirements (like the Texas requirement) in Wisconsin and Mississippi, and the Alabama Attorney General announced that the state would no longer attempt to defend its similar requirement in a case brought by ACLU and Planned Parenthood attorneys.

We hope that politicians will hear the Supreme Court's message. But, unfortunately, we don't expect that those who oppose a woman's right to make her own decisions about her pregnancy will simply stop. Here in New Mexico, we have worked hard with our partners, year after year, to defeat legislation that would unfairly restrict abortion access, and we will likely see those bad bills again this year. We need to remain vigilant in our efforts to ensure that all women and families in New Mexico are able to make their own decisions about abortion without unjustified and burdensome government interference.

ACLU-NM Holds CBP Accountable for Horrific Illegal Cavity Searches of NM Woman

By Micah McCoy

In July, the ACLU of Texas and the ACLU of New Mexico announced a record settlement in which U.S. Customs and Border Protection (CBP) paid to a New Mexico woman \$475,000 for illegally subjecting her to vaginal and anal searches after she was detained at the Cordova Bridge point of entry in El Paso.

In conjunction with the settlement, the four ACLU affiliates at the nation's Southwest border dispatched letters to 40 healthcare providers that cover 110 facilities—from San Diego to Houston—detailing the rights and responsibilities of hospital personnel when confronted by federal agents who request they perform invasive and illegal body cavity searches. In 2014, the University Medical Center of El Paso paid the same woman—referred to in the lawsuit as Jane Doe to protect her privacy—a \$1.1 million settlement—for its collusion in the invasive searches.

"It is inexcusable that government agents, men and women sworn to uphold and defend the Constitution, violated Ms. Doe in such a horrific manner," said Peter Simonson, executive director of the ACLU of New Mexico, "This settlement puts border agents on notice that brutality against border residents will not be tolerated, and stands as a reminder to hospitals of their rights and responsibilities towards the communities they serve. No one should ever again have to endure a protracted and agonizing nightmare like Ms. Doe did."

The ordeal began when a drug-sniffing dog allegedly "alerted" on the ACLU's client as she attempted to return from Mexico to her home in the U.S. Agents subjected her to a strip search at the border station, examining her genitals and anus with a flashlight. No contraband was found. The agents nevertheless transported Ms. Doe to University Medical Center, where over the course of six hours she suffered an observed bowel movement, an X-ray, a speculum exam of her vagina, a bimanual vaginal and rectal exam, and a CT scan. These procedures were conducted without Ms. Doe's consent or a search warrant.



Having found no contraband, CBP agents offered Ms. Doe a choice to either sign a medical consent form or be billed for the cost of the searches. Ms. Doe refused to sign, and was later billed \$5,488.51.

"While we are pleased to have obtained justice for our client, this is really a victory for residents of border communities, who shouldn't have to fear interactions with the thousands of border agents in their midst," said Rebecca Robertson, legal and policy director for the ACLU of Texas. "Of course, this result could not have been achieved without Ms. Doe's courage and perseverance. Had she succumbed to the threats of CBP agents and remained silent, who knows how many others might have suffered a similarly despicable experience."

In addition to the financial award, the settlement requires CBP to undertake additional training for hundreds of line officers and supervisors. There are currently tens of thousands of federal agents deployed to the Southwest border and calls by some lawmakers to swell the ranks further.

This settlement is one of the largest of its kind ever reached over violations involving an individual search. Ms. Doe is deeply traumatized by her experience and continues to suffer emotional and psychological after effects.

SW Chapter Seeks Board Nominations

The Southwestern Chapter of ACLU-New Mexico invites nominations or self-nominations to serve on its board of directors for a term of two or three years.

The Chapter will hold its board elections this fall. The Nominations Committee expects to report to the board at a meeting on September 15. At that point, if there are more nominees than open board positions a mail ballot election will be held. Otherwise, the election will take place at the Annual Meeting of the Chapter on October 28. Currently, there are four three-year term positions up for election and two with a two-year term. It is expected that current board members will be running for re-election to some of those terms.

In order to be nominated for election, an individual must be a current member of the ACLU and a resident of southwestern New Mexico (Catron, Grant, Hidalgo, Luna counties). Individuals nominated will be contacted by a member of the Nominations Committee to discuss the duties of board members, the length of term, etc.

To make a nomination please call Peter Falley at (575) 388-2004 or Frances Vasquez at (575) 590-0014 or send an email to falley8@gmail.com.

The Southwestern Chapter of ACLU-NM has been an active presence in southwestern New Mexico since 2003 and has worked on numerous civil liberties issues during that time. Regular meetings of the board of directors take place on a bi-monthly basis.

Support the ACLU's Fight for Our Civil Liberties



With your help the ACLU is fighting to ensure that the rights and liberties promised in the Constitution are available to every single person in our country. Together, we can set the stage for genuine progress. You can also make a tax-deductible donation online at www.aclu-nm.org.

Gag Rule Struck Down

Continued from page 1

has arisen in New Mexico and around the country concerning the costs and benefits of these tests. Last year, more than 1,000 New Mexico high school students staged a walkout in protest of the Partnership for Assessment of Readiness for College and Careers (PARCC) exam, New Mexico's main standardized test administered to every 3rd-11th grader on an annual basis. Many teachers joined the protests before and after school hours, and groups of parents organized opt-out campaigns, keeping their children home on test days.

The New Mexico Public Education Department was not happy. In an attempt to put a lid on the protests, the education department invoked a seldom-enforced regulation that prohibits public education employees from "disparag[ing] or diminish[ing] the significance, importance, or use of standardized tests," on pain of "suspension or revocation of a person's educator or administrator licensure or other PED licensure..."

In other words, "You can only say nice things about our tests...or we'll fire you."

This regulation had an enormous chilling effect on teachers' speech. Teachers were forced to sign a document at the beginning of the new semester agreeing that they wouldn't "disparage" the tests, and many teachers were so intimidated they were afraid to talk about the tests at all for fear that they could be accused of disparagement. But one group of teachers, decided to fight back by contacting the ACLU of New Mexico, and in March we filed a lawsuit against the Public Education Department on behalf of six teachers and one parent of an elementary school student. The suit alleged viewpoint discrimination, denial of due process of law, and violation of New Mexico public school students fundamental right to education.

"The Public Education Department can't enact sweeping restrictions intended to intimidate teachers and silence viewpoints that they don't like," said ACLU of New Mexico Staff Attorney Maria Sanchez. "Beyond the illegality of this restriction, there is something unsettling and fundamentally un-American about the government compelling praise for its policies. Our society is in the midst of an important conversation about what role standardized testing should play in education, and the government shouldn't be trying to forcibly elbow teachers' voices out of the public square."

Mary Mackie, a veteran teacher at Montezuma Elementary School in Albuquerque and one of the plain-

tiffs in the lawsuit, said that the testing gag rule had such a chilling effect on free speech that it became a serious impediment to her ability to provide important information about the tests to parents.

"Parents need honest and accurate information from teachers in order to make important decisions about what is best for their children's education and well being," said Mackie. "As the grandparent of a special needs student, I know that these tests aren't right for every child. But under the gag-order, I was forced to keep parents in the dark about any negative consequences testing might have on their child or risk losing my teaching license."

She remembers one instance in particular when one of her students, who was cognitively impaired, was forced to take a standardized test even though she had trouble speaking, could not read, and couldn't even hold a pencil. Despite this, Mackie was prohibited from reading her the test questions. To answer each question on the test, Mackie was forced to put up her hand and ask the student to point to a finger which stood for a corresponding letter (A, B, C, D) on the testing bubble sheet. Plaintiff Mackie identified whichever finger the student pointed to and then recorded the corresponding letter on the bubble sheet. It did not matter that the student could not read the questions or that the student had no idea that she was answering standardized test questions; she was still forced to take it. Even though Mackie did not believe it was appropriate for this child to undergo this particular standardized test, she did not feel like she could raise these concerns due to potential discipline for "disparaging" the test.

Immediately after filing the lawsuit, the ACLU of New Mexico's communications team booked plaintiffs interviews with radio stations and TV networks across the state, placed stories in all the major papers in New Mexico, and saturated social media channels with news of the lawsuit. The ensuing publicity sparked an immediate backlash from the public and put the Public Education Department on the defensive. Within weeks of filing the lawsuit and the accompanying media blitz, the Public Education Department announced it would begin the process to remove the gag rule. In August, the regulation was officially struck from the books.

"We're thrilled that the ACLU of New Mexico was able to help these courageous teachers put an end to this unconstitutional gag rule," said ACLU-NM Executive Director Peter Simonson. "The coordinated strategy between our legal and communications teams helped resolve this case with remarkable speed, ensuring that the gag rule did not continue to hang over teachers heads for long. Public education employees can now provide parents with the information they need and be full participants in the public debate surrounding testing without fear of losing their licenses or jobs."

“
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1 evening. 20 stories. 140 seconds.

Respect 140

In April, the ACLU of New Mexico along with its fellow partners in the Respect NM Women coalition—a group of organizations, women, and families dedicated to ending abortion stigma and protecting abortion access—hosted an innovative abortion-out-loud event in Albuquerque called RESPECT 140. We invited 20 local men and women to share their personal stories about abortion and reproductive decisions live in front of an audience with the catch that they only had 140 seconds each to present their message.

Their short stories, poems, and performances were in turns funny, sad, uplifting and all incredibly powerful. And they're available for you to watch at the Respect NM Women website (respectnmwomen.org) and Respect NM Women Facebook page (www.facebook.com/respectnmwomen)!

Physician Aid in Dying: Where We Go from Here

By Micah McCoy

Heartbreaking. No other word adequately describes the New Mexico Supreme Court's ruling in our medical aid in dying case this summer. After four years of litigation and a resounding win at the district court level, the New Mexico Supreme Court ruled that terminally ill New Mexicans cannot under current law seek a physician's aid in dying if their suffering becomes unbearable.

The ACLU of New Mexico originally filed the case, *Morris v. New Mexico*, in 2012 on behalf of two Albuquerque oncologists, Dr. Katherine Morris and Dr. Aroop Mangalik, and Aja Riggs, a cancer patient living in Santa Fe. In 2014, following trial, the New Mexico 2nd District Court ruled that aid in dying is a fundamental right protected by the New Mexico State Constitution. In August 2015, the New Mexico Court of Appeals overturned the district court ruling in a split decision upheld by the state supreme court this June.

The ACLU of New Mexico has exhausted the options for winning medical aid in dying in New Mexico courts, but that doesn't mean the fight is over. It is now up to the New Mexico State Legislature to provide the New Mexican people with legislation that establishes medical aid in dying as an option for terminally ill patients.

There is reason to be hopeful that the legislature will pick the issue up. Already, Representative Bill McCamley from Las Cruces has stated his intent to introduce legislation legalizing aid in dying during the upcoming 2017 session.

There are many heartening signs that indicate momentum is on our side. Aid in dying is widely supported in New Mexico, with a 2012 poll showing that two out of three New Mexico voters (65%) believe it should be available. More recent national polls show that three out of four (74%) Americans support access to aid in dying as do the majority of doctors (54%).

Just as the ACLU of New Mexico led the legal effort to give dying New Mexicans end of life options, we remain committed to being a key part of the legislative effort as well. The ACLU of New Mexico has already joined a legislative working group to explore the issue, our policy experts are preparing to lobby legislators during the upcoming legislative session, and our communications department will mobilize our thousands of supporters throughout the state to ensure we all can have the care we need at end of life.

"It may take several sessions to get a bill passed and signed, but we know the tide of history is on our side," said ACLU-NM Policy Director Steven Allen. "Four states have passed laws legalizing medical aid in dying, and we are confident that New Mexico won't be far behind in offering this compassionate care to dying patients."



DR. MORRIS

DR. MANGALIK

AJA RIGGS

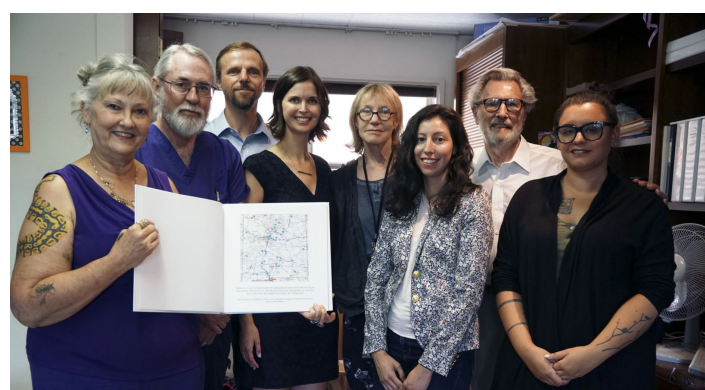
Thank the Morris v. New Mexico Plaintiffs

It's no small thing to be the public face of a high-profile case like this, we're forever grateful to Drs. Katherine Morris and Aroop Mangalik, and Aja Riggs who bravely fought with the ACLU of New Mexico to give dying patients the ability to choose a more peaceful death at the end of life.

Please join us in offering our thanks to them by signing our letter online at aclu-nm.org.

ACLU-NM Members Show Appreciation for Local Abortion Providers and Clinic Staff

By Rachael Maestas



In our last issue of the Torch, Peter wrote in his Executive Director's Notes about the relentless attacks our New Mexico abortion providers face both locally and nationally. Abortion providers and their clinic staff are some of the most dedicated people around. Every day they brave a gauntlet of anti-abortion activists just to get to work. They face harassment, intimidation, and even threats of violence on a daily basis. Earlier this year, a congressional panel opened politically motivated investigations into several clinics—including Southwestern Women's Options right here in Albuquerque, NM.

Day in and day out, abortion providers and clinic staff go to work despite these intimidation tactics, and continue to provide safe and compassionate care to people who need it. In our last issue, we asked you to show your support for these brave providers and their staff by filling out the postcard we provided with a message of encouragement. Your response was overwhelming. ACLU members mailed in over 400 postcards from all over the state, many with personal messages of gratitude and support. We compiled your messages into a

book and hand delivered a copy to each clinic in New Mexico. Now, thanks to you, clinic staff will always have a reminder nearby that their work is appreciated and their community has their back.

This show of support means a lot in the current climate. In the last five years alone, states enacted over 300 laws specifically regulating abortion or doctors who perform them in an attempt to drive providers out of business and make it harder for women to access the healthcare they need. According to the National Abortion Federation, threats of violence aimed at abortion providers since 2014 have increased dramatically. Online threats went from 91 recorded instances in 2014 to over 25,000 in 2015. Authorities documented only one death threat in 2014, whereas death threats skyrocketed to 94 in 2015—also the year in which an anti-abortion extremist killed three people at an abortion clinic in Colorado Springs.

This is why now more than ever our courageous providers and staff need our support, especially from the people in their own communities. Together, we sent a powerful message that we respect a woman's ability to make her own decisions about abortion and that New Mexico won't stand for intimidation of our most dedicated and compassionate medical professionals. Thank you for showing our abortion providers and clinic staff that New Mexico stands with them through the tough times and the good.

A picture album with the appreciation book contents are available at respectnmwomen.tumblr.com.



PHOTOS:

(ABOVE) Hundreds of thank you postcards mailed by Torch readers in the ACLU-NM conference room.

(LEFT) ACLU-NM staff present the book containing the postcards to Southwestern Women's Options providers and clinic staff in Albuquerque, NM.

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CBP Called Her 'A Whore:' How Border Officers Violate Rights and Strip People of Dignity at Ports of Entry

By Cynthia Pompa

"You're a whore."

That's what a U.S. Customs and Border Protection (CBP) officer told 51-year-old grandmother Amanda Rodríguez, as she passed through the Ysleta port of entry in El Paso, TX for her weekly shopping trip to Walmart. Her ordeal began last September when the agent stopped her at the border for a routine inspection as she crossed from Ciudad Juárez to El Paso to run errands. At the port of entry, the agent made sexist comments about her looks and asked her leading questions about whether she was entering the U.S. to perform "favors." Rodríguez, who was confused by the line of questioning, didn't understand well enough to contradict the agent's allegations that she was a sex worker.

"Andas de puta," the CBP officer aggressively told her, without any evidence to back up his claim: "You are a whore."

Mrs. Rodríguez is not, nor has ever been a sex worker. With her husband of 33 years, Mrs. Rodríguez is a proud mother of two who, when not doting on her grandchild at home, works part-time for a community group that helps support women in Ciudad Juárez seeking to escape domestic violence. But none of this mattered when things came to a head the following month.

When she tried to cross into El Paso again in October to get her shopping done, CBP immediately pulled her aside and detained her for ten hours. They falsely accused her of prostitution, threatened her with jail time, mocked her women's rights work in Ciudad Juárez, and coerced her into signing a document containing a falsified interrogation in English that she didn't understand. They then told her that they had revoked her visa and she would be barred from entering the United States for a period of five years.

Ms. Rodríguez' story is one of thirteen cases the ACLU of New Mexico Regional Center for Border Rights urged the Department of Homeland Security Office of Inspector General and CBP Office of Professional Responsibility to investigate in a complaint we filed with the organizations in May.

The complaint details CBP officers at ports of entry in El Paso, Texas and southern New Mexico: forcefully yanking a defenseless boy out of a vehicle; calling a noncitizen "wetback" and denying access to her diabetes medication; subjecting multiple men and women, two of them in their fifties, to humiliating strip searches without consent; and coercing individuals to accept swift deportations with long-term consequences that bypass the judicial process. In multiple cases, border residents reported that CBP officers discouraged or failed to inform them of how to file a complaint.

As a border resident, I myself have experienced misogynistic and unprofessional treatment at a port of entry. Last year, while waiting at the Bridge of the Americas in El Paso, a CBP officer tapped on my car window to pry into my relationship status and ask for my phone number. I politely declined, but then agonized as he continued to follow my car and peer inside. As any woman knows, it is scary to face unwanted ad-

vances from men in public. It is doubly frightening when unwanted advances come from an armed man who claims extraordinary power to pull you out of your car, detain you, and order you to be strip searched.

Every day, more than 600,000 people nationwide lawfully enter the United States through land ports of entry to vacation, visit family or shop. Cross-border commerce with Mexico, our top trade partner, fuels state economies and creates 1 in 24 jobs nationwide. Rather than celebrate border communities' economic contributions and unprecedented public safety, irresponsible rhetoric has led to a dramatic buildup of CBP enforcement without commensurate investment



El Paso/Juarez Port of Entry

in oversight and accountability.

Unfortunately, CBP officers who conduct themselves unprofessionally or abuse people are unlikely to face any sort of discipline. Peer law enforcement professionals, including a former top official at CBP, didn't mince words when they recently concluded, "The CBP discipline system is broken." Indeed, a May 2012 complaint filed by ACLU affiliates and detailing similar abuses at ports of entry border wide has gone largely uninvestigated.

Despite minimum standards developed to bring CBP in line with the principles of the Federal Prison Rape Elimination Act, a recent DHS Office of Inspector General audit found CBP lacks consistent reporting requirements or policies to ensure meaningful investigation of sexual assault or abuse allegations. That's not comforting news for an agency whose former head of Internal Affairs blew the whistle on a "spike" of sexual misconduct cases between 2012 and 2014—a rate far exceeding other federal law enforcement agencies.

CBP's newly minted Office of Professional Responsibility has a real test before it to uproot a culture of impunity firmly taken hold in our nation's largest police force. Failure to transparently investigate allegations undermines public confidence that CBP takes abuse seriously and does a disservice to officers who act professionally.

Ultimately, reforming CBP culture will require changing officers' beliefs and potential biases, including those related to gender. When CBP officers dismiss women's rights or act as if a badge empowers them to make unwanted advances, they offend our most basic understandings of equity. That a single officer can hurl unfounded allegations, based on bias and not evidence, strip that person of their dignity, and then act as judge, jury and deporter makes a mockery of American values of justice.

Cynthia Pompa is a lifelong resident of the border region and field organizer for the ACLU of New Mexico Regional Center for Border Rights.