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the TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

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Anti-Choice Extremism in New Mexico

Of the many decisions we make in our lives, those concerning our health and medical care are some of the most intimate, private and important. Most of us could never imagine allowing a stranger to sit in on conversations with our doctor, much less allow them a say in what medical care is right for us or dictate what choices we have. However, plenty of religious extremists and far-right politicians would like nothing better. In recent years, anti-choice activists have launched an all-out attack on a woman's right to make reproductive health decisions with her doctor. They believe that not only are a woman's health care decisions not private, but they have the right to make the choice for her. They have unilaterally decided that they are more qualified than your doctor to determine what medicines, treatments and procedures are appropriate for your needs.



The Assault on the States

Even though most Americans don't want radical politics and religious extremism in their examining room, well-organized anti-choice activists have nonetheless succeeded in injecting their personal ideologies into millions of women's doctor-patient relationships. In the first three months of 2011 alone, legislators in 49 states introduced 916 measures designed to curtail reproductive freedom—nearly half of which would restrict abortion. They pushed through a record 80 anti-choice laws, imposing waiting-periods, parental notification, mandatory ultrasounds, required "counseling" and in some cases outright outlawing the procedure past a certain number of weeks gestation.

The anti-choice movement has also been successful in using state level medical regulation to block women's access to reproductive health care. This September, the Virginia Department of Health rubber-stamped onerous architectural standards (room size, hallway width and other non-health or safety related standards) handed down by the state's general assembly. Local pro-choice advocates estimate that the expensive structural changes these new standards require could force the closure of 17 or more of the state's 21 abortion care clinics. Medical boards have approved these medically unnecessary, politically motivated regulations—appropriately called TRAP laws (Targeted Regulation of Abortion Providers)—in more than twenty states.

New Mexico has a long history of standing up for reproductive rights and is currently one of the few remaining states that does not have laws or regulations designed to restrict

access to abortion. NARAL Pro-Choice America, a leading national abortion rights organization, currently gives New Mexico an "A-" on choice-related laws and regulations (They now list Virginia as an "F"). Every year, our legislature has successfully blocked repeated attempts to pass laws that aim to inject partisan politics and narrow religious beliefs into the examining room. However, our distinction as a state that rejects the idea that religious extremists have the right to meddle in our private medical decisions has marked New Mexico as the next battleground. And it's attracting some of the most violent and extreme people from the anti-choice fringe.

A Dangerous Campaign of Harassment and Intimidation

Operation Rescue, a radical anti-choice organization based in Wichita, Kansas, opened a satellite office in Albuquerque in the summer of 2010 to continue their mission of harassing doctors and the women seeking their help. Operation Rescue first gained notoriety in the late 80s-early 90s for staging massive "sit-in" style protests, physically blocking doctors and patients from entering reproductive health clinics. The U.S. Congress responded by passing the Freedom of Access to Clinic Entrances Act of 1994, making it a federal crime to obstruct, intimidate or interfere with anyone attempting to enter a medical clinic. Deprived of its primary tactic, Operation Rescue declined in prominence in the anti-choice movement and all but fizzled out.

Operation Rescue experienced a resurgence in the late 90s under the leadership of President Troy Newman and Se-

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THE TORCH

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Extremism, ctd.

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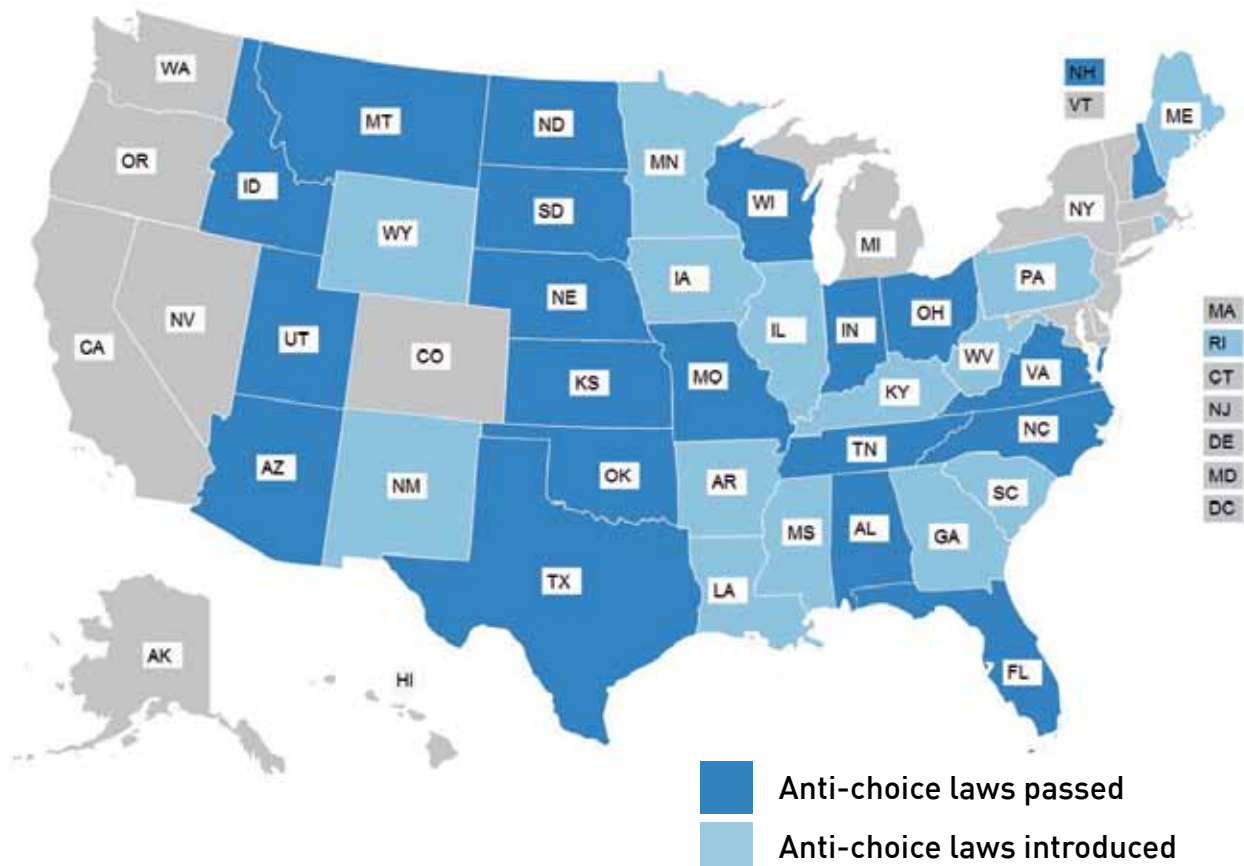
nior Policy Advisor Cheryl Sullenger, a convicted felon who served two years in federal prison for conspiring to bomb a clinic in 1987. Operation Rescue relocated their headquarters from California to Wichita, Kansas in 2002 to target Dr. George Tiller, an abortion provider and one of the few doctors in the nation who provided abortion care into the third trimester. The organization launched a relentless campaign of personal and professional harassment and intimidation against Dr. Tiller and his employees for the next seven years.

Sunday worship at church. Senior Policy Advisor Cheryl Sullenger's telephone number was found on the dash of Roeder's getaway car after police apprehended him. After first denying contact with Roeder, Sullenger later admitted to updating Roeder on Tiller's schedule and whereabouts.

Operation Rescue Comes to Town

Nationally respected Albuquerque physician Dr. Curtis Boyd, a close personal friend to Dr. Tiller, announced that, in response to Tiller's assassination, he would begin performing third-trimester abortions. He also noted on his website that he had hired two of Tiller's former colleagues to continue his work of offering late-term abortion care to women in need.

ANTI-CHOICE LAWS AND THE 2011 LEGISLATIVE SEASON



The tactics Operation Rescue employed in their crusade against Dr. Tiller and other local doctors were extreme—and extremely personal. They published home addresses, phone numbers and photographs of clinic workers online, picketed outside the homes of clinic employees and even encouraged neighbors join in the harassment. The group dug through clinic and home trash cans, hoping to glean personal details about employees from the rubbish. Operation Rescue continues to use these tactics today.



Dr. George Tiller (1941-2009)

By 2009, Dr. Tiller was the last remaining abortion provider in Wichita. Unable to intimidate Dr. Tiller out of his medical practice (Tiller showed up to work the day after receiving two gunshot wounds in the first attempt on his life), Operation Rescue used Kansas's anti-choice legislature and the state medical board to put pressure on his practice. Operation Rescue filed complaint after complaint with the state medical board, forcing Dr. Tiller to expend enormous time and resources defending his medical license against bogus allegations of wrongdoing and negligence.

Operation Rescue's vendetta against Dr. Tiller's practice ended abruptly on May 31, 2009 when anti-choice extremist Scott Roeder shot and killed George Tiller as he ushered

Within months of Boyd's announcement, Operation Rescue sent two "missionaries," a former intern and his wife, to Albuquerque to work with the local anti-choice group "Project Defending Life." This fall, Project Defending Life/Operation Rescue made their first major move. The group obtained recordings of 9-1-1 calls made from Boyd's clinic, Southwestern Women's Options, and the University of New Mexico Center for Reproductive Health and claimed loudly that the calls were evidence of wrongdoing on the part of the doctors. Following their Kansas playbook, Operation Rescue submitted multiple complaints to the New Mexico Medical Board, demanding they investigate.

The fact that an outpatient surgery center has on occasion called 9-1-1 does not necessarily indicate that the physician has provided sub-standard care. Abortion has an extremely low rate of serious complications—around half of one percent—making it one of the safest types of medical procedures. In the rare case where complications do occur, responsible doctors at outpatient care facilities take whatever actions are necessary to ensure a patient's health and safety. Sometimes this includes calling emergency services to transport a patient for further treatment.

The complaints, filed by the convicted felon Cheryl Sullenger, are clearly not motivated by genuine concern for the health and safety of women; they were filed in an attempt to hijack the regulatory power of our state medical board and employ it as yet another tool of harassment against respected physicians.

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Executive Director's Notes

Proposed Amendment Would Hurt Non-Profits



In the backlash against the Supreme Court’s ruling in *Citizens United v. Federal Elections Commission*, many people are pushing to amend the U.S. Constitution to declare that the Bill of Rights only applies to individual persons, not corporations. While this is an understandable reaction to the growing influence of corporate dollars in politics, stripping corporations—including nonprofit corporations like the ACLU, Planned Parenthood and Sierra Club—of constitutional rights would have serious consequences for liberty in the United States.

Imagine that the FBI breaks into the ACLU’s offices one night, without a warrant. They walk through the halls taking photos of what’s up on the walls, papers left in our conference room, just to probe for subversive activity. The following day ACLU staff and board decide to sue under the 4th Amendment for unreasonable search and seizure. In such a suit the plaintiff must have suffered “injury in fact” and have a “sufficiently concrete interest” in the outcome of the dispute. Individual board and staff members probably wouldn’t satisfy those requirements. The most suitable plaintiff? The ACLU of New Mexico, a corporate entity.

Now, recall a lawsuit that the ACLU filed in 1998: *NARAL v. Johnson*. The suit forced the State of New Mexico to allow the use of Medicaid funds for medically necessary abortions. As lead plaintiff, NARAL represented women in the organization’s membership who were Medicaid-eligible. The state argued that NARAL didn’t have standing to bring the suit because none of their members were Medicaid-eligible women who also had been denied a medically necessary abortion. Fortunately, the NM Supreme Court denied

the motion to dismiss, or else the ACLU would have been left trying to identify women who wanted abortions and who were willing offer up their names as plaintiffs—a challenging task, to be sure.

Normally the ACLU files civil rights cases on behalf of individual named plaintiffs, but as the above examples show, this isn’t always desirable or even possible. The fact that courts grant certain constitutional rights to corporations like ACLU and NARAL means we can use legal strategies more nimbly and effectively to protect civil liberties. Absent that condition, critical cases would go unfiled, individual people would suffer, and government generally would enjoy greater latitude to silence those voices that challenge it.

Consider some of the ACLU’s most important recent cases:

- ACLU v. NSA, challenging President Bush’s warrantless wiretapping program;
- ACLU v. Mukasey, challenging internet censorship under the Child Online Protection Act;
- ACLU v. Ashcroft, challenging the National Security Letter provision of the USA Patriot Act; and
- ACLU v. Department of Defense: litigation under the Freedom of Information Act that exposed the extent of abuse and torture in U.S. detention centers overseas.

Perhaps individual plaintiffs could have been named in some of these suits, but in each instance the ACLU decided to file on its own behalf, not indiscriminately, but because it gave us the best chance to prevail.

The US Supreme Court’s ruling in *Citizens United* is troubling for many reasons, but not because it affirmed the longstanding principle that corporations have certain rights. Those who are calling for a constitutional amendment to deny key rights to corporations should be careful what they wish for. We could find ourselves with less freedom than ever before.

Peter Simonson
Executive Director

Extremism, ctd.

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Standing Strong for Reproductive Rights

For nearly 50 years, the ACLU of New Mexico has fought to ensure that women have the right to make their own reproductive healthcare choices. We’re not about to stop now.

In response to Operation Rescue’s intrusions in our state, this November we asked you, our members and supporters, to write the medical board to ask that they keep politics out of the investigation process and make decisions based on sound medicine—not based on the extremist agendas of out-of-state fringe groups. You came through with an overwhelming response, sending over 300 emails

in just a few hours opposing Operation Rescue’s intimidation of respected community physicians.

We know that this is only the beginning. Operation Rescue will relentlessly attack reproductive freedom in New Mexico using any means necessary, whether it be legislation, TRAP regulations, hijacking medical boards or personally harassing respected physicians. Doubtless we will see many more assaults on reproductive freedom here in the near future, but the ACLU of New Mexico will continue to work tirelessly to ensure that no one forces their way between you, your doctor and your health.

We invite you to stand with us in this struggle by staying informed and active through our online email action alerts. We’ll alert you when new threats to reproductive freedom arise and let you know where your voice will do the most good. If you are not already on our list, please sign up online at aclu-nm.org.



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RCBR Dispatch

Challenging a Culture of Cruelty

ACLU of New Mexico Regional Center for Border Rights (RCBR) Policy Advocate Tania Chozet recently returned from a trip to Washington, D.C. where she worked alongside other immigration and civil rights advocates to publicize abuses by the Border Patrol. The visit was prompted by two recent, disturbing NGO reports about Border Patrol abuses: *A Culture of Cruelty*, by No More Deaths, a volunteer humanitarian aid organization in Arizona, and *Justice Derailed* by the New York Civil Liberties Union, the ACLU's New York affiliate.

Both reports describe a systematically abusive trend in Border Patrol enforcement. The findings in *A Culture of Cruelty* (which also mention RCBR's collaborations) were distilled from interviews with close to 13,000 deported migrants in northern Mexico. This report found an alarmingly high number of civil and human rights violations, including deprivation of food and potable water, unsanitary and inhumane conditions in holding cells, deprivation of emergency medical care and physical and psychological abuse. Almost 97 percent of those migrants interviewed by aid workers—including migrant children—had experienced some form of abuse, and many of those interviewed experienced multiple forms of abuse.

Justice Derailed found similarly egregious abuses, though in a different form. The report revealed that the Border Patrol employs aggressive policing tactics on the northern border to increase arrest rates, and, in the process, disregard Constitutional liberties. Although the Border Patrol's mandate is to secure the border, often these abuses take place many miles from any national boundary. One striking example given in the report are the transportation sweeps that armed Border Patrol agents in the Rochester, NY area routinely perform on buses and trains. During these sweeps they ask passengers to produce documents that prove their right to be in the country. When passengers, including U.S. citizens and lawful permanent residents, are unable to produce papers to the satisfaction of these armed agents, they become subject to arrest, detention and even deportation. Two-thirds of all arrests in the Rochester area derived from these transportation sweeps.

"The findings in both reports are consistent with the abusive trends in Border Patrol enforcement that we hear about in New Mexico," said Chozet.

The delegation included representatives from the New York Civil Liberties Union, National Immigration Forum, Women's Commission on Refugees, No More Deaths and the Latin American Working Group.

"One of the strengths of this delegation was that we represented voices from the northern and southern borders, as well as Washington, D.C., which allowed us to demonstrate a national concern about Border Patrol abuses," Chozet adds.

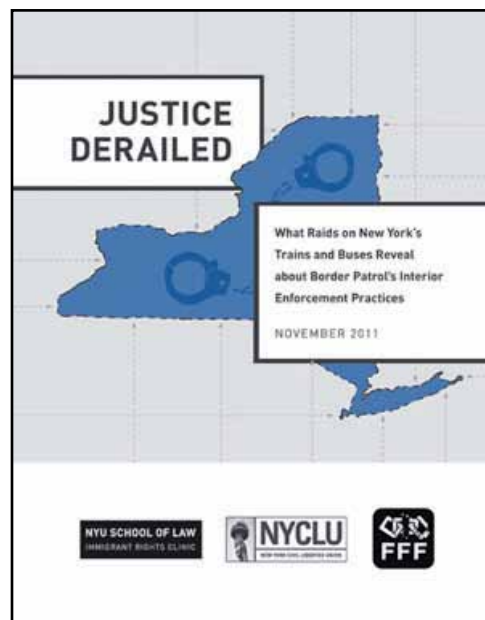
During the visit, the delegation met with top officials at the White House, Mexican Embassy, Border Patrol, Department of Homeland Security's Office for Civil Rights and Civil Liberties, as well as Congressional staff members and the Inter-American Commission on Human Rights.

"Some meetings were more positive than others," notes Chozet. "For example, the White House appeared quite concerned about the abuses documented in these reports, and they continue to work with us on our administrative policy asks, some of which included basic requests like the ability for NGOs to monitor conditions in Border Patrol facilities (a policy already in existence in ICE detention facilities) and increased accessibility for migrants to a Border Patrol complaint form that is currently only available online and in English."

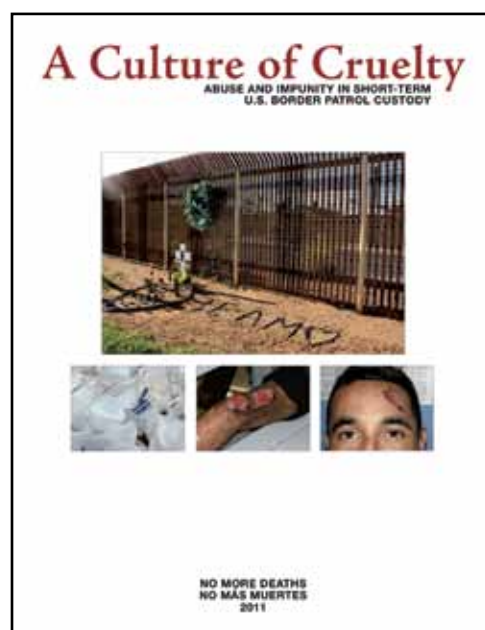
"However, our meeting with Border Patrol was disheartening; the officials we met with set low expectations from the start of the meeting when they said that they didn't 'believe that this is happening,' given the high level of 'professionalism' in their ranks."

Still the visit energized and inspired delegation. "These abuses are often difficult to document, because migrants are in Border Patrol custody for less than 72 hours," notes Chozet. "Part of our work at the ACLU of New Mexico is to help guard civil rights afforded to all people, including the protections for equal rights and against cruel and unusual punishment. Because these abuses easily go undetected, migrants in custody are especially

vulnerable. We need to continue to shine a light on these abuses and advocate for ways Border Patrol agents can be held accountable."



The report *Justice Derailed* is available online at NYCLU.org.



The *Culture of Cruelty* report is available online at cultureofcruelty.org

A Winter Message from Julie Weinstein

“Those who won our independence... believed liberty to be the secret of happiness and courage to be the secret of liberty.”

—Louis D. Brandeis

Dear Friend of Liberty,

One of the things that I love about this time of year (besides the delicious food!), is the sense of gratitude and joy that we celebrate for one another. I want to personally thank you for your courage to stand with the ACLU, to partner with us to protect and defend what’s fair and just for all people.

In most instances, the ACLU is the only organization to defend against attacks on personal freedom, choice and expression. We are the state’s largest, most active and most successful civil rights organization. We’re armed with a local team of top attorneys and even more legal and advocacy resources spread across the nation.

However, it is only thanks to the generous support of our committed members and donors like you that we are able to continue our vital work. Without you, we would be unable to fight for people like Sahaj Khalsa, the Sikh paramedic from Española who lost his job because he would not turn his back on his religion and shave his beard. Or Bryan Gonzalez, who was fired from his job as a border patrol agent near Deming because he remarked to a friend that he personally believed that the U.S. should end the drug war. Or the three women incarcerated at New Mexico Women’s Correctional Facility who were raped by a male employee—and then placed in solitary confinement when they tried to speak out.

We fight these battles with 500,000 ACLU members by our side—over 4,000 from New Mexico. All of this work, and much more, the ACLU is able to carry out because supporters like yourself have stepped up to invest in the ACLU’s vision of a smart, formidable and multifaceted organization to protect civil liberties in our state. Thank you.

As we look towards a new year and new challenges, I urge you to make a bold investment in the future of liberty. Your continued courage and generosity reaps returns on investment that personally impact millions of real individuals and families, here in New Mexico and across the nation. Be proud that your tax-deductible dollars are directly fighting for equality, fairness and justice—values that the ACLU of New Mexico has been equally proud to defend for nearly half a century.

With deep gratitude and warm winter wishes,



Julie Weinstein
Director of Philanthropy



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Phone: (505) 255 -5915 x1001
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If you are 70 ½ or older, you can make a tax free gift of up to \$100,000 directly from your Individual Retirement Account to the ACLU of New Mexico Foundation.

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To qualify before this benefit expires your gift must be completed by December 31, 2011.

To Get Started
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Toll-free: (505) 266-5915 x1001
Email: jweinstein@aclu-nm.org



The 49th Annual
American Civil Liberties Union of New Mexico

Bill of Rights Celebration

Special thanks to everyone who came out to our 49th Annual Bill of Rights Celebration on Saturday, October 22 at the National Hispanic Cultural Center in Albuquerque. We had a packed house and one of our strongest programs in recent memory. Be sure and keep an eye out for news of our upcoming 50th Anniversary celebration in 2012—it will be a don't miss!



ABOVE: James Walker gives his acceptance speech for the Guardian of Liberty Award.



ABOVE: Guardian of Liberty Award recipients Steven De Los Santos and James Walker.



ABOVE: Executive Director Peter Simonson delivers the keynote address.



ABOVE: Managing Staff Attorney Laura Schauer Ives presents the Cooperating Attorney Award to Mark Fine.



ABOVE: ACLU-NM board member Andrew Shultz introduces the film, *“When Freedom Can’t Defend Itself.”*



ABOVE: Staff Attorney Alexandra Freedman Smith presents the Guardian of Liberty Award to De Los Santos and Walker.

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Couldn't make it to the celebration?

Be sure and visit us online to watch the powerful new video, *When Freedom Can't Defend Itself*, we premiered at this year's Bill of Rights Celebration. The video follows the inspiring stories of four New Mexicans, a Sikh paramedic, a National Guardsman, a Border Patrol agent and a high school student, who all stood up against injustice with the ACLU of New Mexico.

Watch online at <http://aclu-nm.org/video-when-freedom-cant-defend-itself/2011/11/> or look for the link on our aclu-nm.org home page.

Filmed by acclaimed Santa Fe documentarian Lexie Shabel and videographer Liza Bambenek (*True Grit*, *No Country for Old Men*, *Crazy Heart*), edited by David Aubrey at Lightningwood Pictures.





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New Staff

Madelyn Rothstein, *Development Associate*



Madelyn serves as the Development Associate for ACLU-NM, managing fundraising efforts to maintain and expand the work of the affiliate. Prior to joining the ACLU-NM in October 2011 she worked as a fundraiser for the San Francisco Symphony. As a Lead Field Manager on sequential campaigns in Berkeley, CA Madelyn worked first building membership for the ACLU in Northern California and then garnering support to overturn Prop 8 in California and restore equal marriage rights with Equality California.

After completing her B.A. in Spanish & Community & Culture from UCLA in 2009, Madelyn began conducting applied research and service projects in the Latino immigrant communities of Los Angeles for the United Nations Report on Immigration, published by the North American Integration and Development (NAID) Center of UCLA in 2007. She completed her degree with a 7-month study in Buenos Aires, Argentina where she worked with children affected by HIV/AIDS.

Madelyn’s driving passions are social and environmental justice as well as performance and visual art. Madelyn now resides happily in Albuquerque with her partner and enjoys hiking, climbing and kayaking the beautiful terrains of New Mexico.

Steven Robert Allen, *Director of Public Policy*



In January, 2012, Steven Robert Allen will join the ACLU of New Mexico as the Director of Public Policy. In this position he will act as the ACLU of New Mexico’s primary representative at the Roundhouse, lobbying to protect and extend civil liberties through the law making process. Allen will also seek to promote good government policy at the municipal and county level throughout the state.

Allen has a BA from the University of California, Santa Barbara, and a JD from Chicago-Kent College of Law. He is a member of the State Bar of New Mexico and is the former editor of the Weekly Alibi, Albuquerque’s alternative newsweekly.

Steve Allen has spent the past four years working as the Executive Director of Common Cause New Mexico, a nonprofit advocacy organization dedicated to holding elected leaders accountable to the public interest. One of his biggest accomplishments during his tenure with Common Cause was helping the state pass campaign contribution limits.

“I have had the pleasure of working in partnership with Steve and Common Cause on various government transparency issues over the years,” said Executive Director Peter Simonson. “I am very excited to continue this working relationship under the ACLU-NM banner. Steve brings a diverse set of skills and depth of experience to the organization that will be invaluable.”

Steve lives with his wife, Sheila, and his two dogs and two cats. When not fighting for the public interest at the Roundhouse, he can often be found wielding a banjo in the alternative bluegrass band Young Edward.

Binational Abuse Documentation Training



ABOVE: RCBR Director Vicki Gaubeca presenting the abuse documentation system in Saltillo.

At the end of November, ACLU of New Mexico Regional Center for Border Rights (RCBR) Director Vicki Gaubeca traveled to Saltillo, Mexico, to provide a training session on the U.S.-Mexico bi-national abuse documentation system to almost 40 staff members from different migrant shelters throughout Mexico, including from Xalapa, Matamoros, Torreon, Guadalajara, Saltillo, Ciudad Juárez, Reynosa, San Luis Potosi, Guadalupe, Cuatitlán and Nogales.

This training was one of several held this year as a ramp up to the first-ever, border-wide documentation campaign set to kick off January 9-10 in El Paso. Brian Erickson, ACLU-NM RCBR field organizer, has trained more than 100 individuals, representing about 70 organizations, to use the system to document civil and human rights abuses that occur along the U.S.-Mexico border. The RCBR has held prior trainings in San Diego, Tijuana, Tucson, Agua Prieta, Nogales, El Paso, Ciudad Juarez, Brownsville and San Juan.

“The January meeting in El Paso will be a key milestone for the documentation system,” notes Gaubeca. “It will bring together key individuals from both sides of the U.S.-Mexico border to launch a pilot documentation campaign at a scale that has not been attempted before. Through it we will get a first snapshot of border-wide abuse that can then be used to illustrate to policy makers the need for more accountability and oversight.”

The pilot documentation campaign will also allow RCBR staff members to test new functionality enhancements made to the bilingual, online documentation system.