



# the TORCH

The Newsletter of the American Civil Liberties Union of New Mexico

## in this issue

Family Detention P.2

Executive Director's Notes P.3

The First Step Forward P.5

Seven Deadly Sins of Policing P.7

Sandy Brickner Remembered P.8

Board Election Announcements P.8

## The Shame of Family & Child Detention

By Micah McCoy, Communications Director



In a drab trailer inside the Federal Law Enforcement Training Center (FLETC) in Artesia, NM, “Marta” sits across from ACLU-NM Staff Attorney Maria Sanchez, holding her seven year old daughter “Rosa” on her lap. Rosa is listless and dull eyed, and her ill-fitting clothes hang off her tiny frame.

Marta and Rosa fled Honduras earlier this summer after two local gang members walked up to them on the street, put a gun to Marta’s head and demanded she pay them \$5,000. They told her she had 24 hours to pay, and if she couldn’t pay, they would kill her.

She didn’t have the money.

“I didn’t have time to think. I had to move very fast to keep us alive,” said Marta, breaking into tears. “Keeping us alive meant I had to make the awful choice to leave my son in another city five hours away where he was staying with my

mother. I didn’t have time to get him to bring him with us.”

Marta’s story is fairly typical of the 500 mothers and children housed in the temporary family detention facility in Artesia. Most are Central Americans, and most say that they are fleeing the terrible gang violence that has rendered great swaths of the “northern triangle” of Guatemala, Honduras, and El Salvador practically unlivable for hundreds of thousands of innocent people.

### Echoes from the Past

Frightening situations like the one Marta and Rosa fled from this summer didn’t come out of the blue. Their stories are part of a bigger story in which U.S. foreign and domestic policy plays a big role. In the waning years of the Cold War in the 1980s, Guatemala, El Salvador, and Honduras became hot battlegrounds in the ongoing proxy wars be-

*Continued on page 2*

## The First Step Forward: APD and DOJ Finalize Reform Agreement

By Alexandra Freedman Smith, Legal Director

After decades of civil rights violations, excessive force, and a spate of unjustified officer-involved shootings, Albuquerque achieved a major milestone in the struggle to reform the Albuquerque Police Department (APD) this fall. On October 31, the Department of Justice (DOJ) and the City of Albuquerque announced that they had finalized the court-enforced settlement agreement that will govern APD reforms in the wake of the DOJ’s scathing report this spring that found that APD has a pattern and practice of violating civil rights.

This agreement is truly a historic moment for Albuquerque, for which we owe a great deal to the tireless activism and advocacy of local communities, especially the family members of those shot and killed by APD officers. As an important partner within APD Forward, the community advocacy campaign formed by the ACLU of New Mexico, community advocacy organizations, and families of victims, we are proud to have been involved in the process that led up to this agreement establishing sweeping reforms within the department. We hope the agreement



will improve how APD reports use of force internally and to the public, will reconnect officers to the communities they serve and protect, and will reform how APD interacts with people who are living with mental illness.

The settlement agreement is over 100 pages long, but here are the major areas of reform in a glance:

*Continued on page 5*

NON PROFIT ORGANIZATION U.S. POSTAGE PAID ALBUQUERQUE, NM PERMIT NO. 59

AMERICAN CIVIL LIBERTIES UNION OF NEW MEXICO FOUNDATION P. O. BOX 566 ALBUQUERQUE, NM 87103 T/505-266-5915 WWW.ACLU-NM.ORG

Visit [www.aclu-nm.org](http://www.aclu-nm.org) to learn more about our work!



## THE TORCH

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

Printed in the United States.

## ACLU OF NEW MEXICO STAFF

Peter G. Simonson  
*Executive Director*

Kathryn Turnipseed  
*Deputy Director*

## ADMINISTRATION & FINANCE

Evelyn M. Dulaney  
*Finance & Administrative Manager*

## POLICY AND ADVOCACY

Steven Robert Allen  
*Director of Public Policy*

Havens Levitt  
*Coalition Organizer*

## COMMUNICATIONS

Micah McCoy  
*Communications Director*

## DEVELOPMENT

Christine Vigil  
*Development Associate*

## LEGAL

Alexandra Freedman Smith  
*Legal Director*

Maria Martinez Sanchez  
*Staff Attorney*

Noah Gelb  
*Legal Intern*

Andrew Polnett  
*Paralegal*

## REGIONAL CENTER FOR BORDER RIGHTS

Vicki Gaubeca  
*Director*

Brian Erickson  
*Policy Advocate*

Cynthia Pompa  
*Field Organizer*

Emily Hauck  
*Project Coordinator*

## Family Detention

*Continued from page 1*

tween the Soviet Union and the United States. The story followed a familiar script: overthrow of democratically elected governments, military funding of brutal dictatorships, arming insurgents, ongoing regional instability, and stomach churning atrocity. Massacres, death squads, disappearances, extrajudicial imprisonment, and torture were daily occurrences during this dark period.

Nearly a million men, women, and children sought refuge in the United States between 1980 and 1991, and to the shame of the U.S. government, it did all it could to block them from coming, often deporting people directly back into harm's way. The deportations continued into the 1990s when the U.S. government intensified its failed "war on drugs" and passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) which set the stage for intensified policing of communities of color, mass incarceration, and mass deportations. Even long-term community members with lawful resident status ("Green Cards") were severed from their families for minor crimes such as shoplifting, possessing small amounts of drugs, or even traffic violations.

### Running for their Lives

The way we treated Central American asylum seekers in the 1980s remains one of the great stains on our nation's honor. Now once again children and families from Central America are fleeing terrible violence and seeking our help.

The wars in Central America are all over, but the instability and violence remain. With infrastructure, governments, and economies still in shambles from the civil wars, organized crime began to flourish. With violent gangs, or "maras" as they are known in Central America, controlling every aspect of life in many areas, thousands of ordinary people have fled their home to seek safety from the threats, the violence, sexual assaults, and the murders that have rendered their homes unlivable. While some choose to migrate to neighboring nations, many look north to the United States where they already have relatives.

This year, more than 50,000 unaccompanied minors from Central America have walked across the southern border seeking refuge. According to a report from the United Nations High Commissioner for Refugees, 58 percent of the youth the agency interviewed "had suffered, been threatened, or feared serious harm" that might merit international protection."

Thousands more children have crossed the border in the care of one or both parents, fleeing for similar reasons.

One mother, "Elena," who the ACLU of New Mexico spoke with in Artesia told us that she fled El Salvador with her pre-teen daughter "Marisol" because one of the gang members in her neighborhood demanded she give her over to be his girlfriend. Elena could refuse and face the threat of murder, could turn her young daughter over to be raped by a gang, or she could flee north. She fled north.

### Children Under Lockdown

The same UN report that demonstrated that the majority of unaccompanied minors apprehended at the border are

fleeing violence also found that only two percent of the children surveyed believed they would be treated well in the United States or benefit from permissive immigration policies. Thus far, the U.S. government has fulfilled their expectations.

Although the vast majority of the Central American refugees arriving at the border have close friends and relatives with whom they can stay while they await immigration and asylum proceedings, the U.S. government has chosen to place them in detention centers instead. Thousands of unaccompanied minors were held in ad hoc detention facilities on military bases in Texas, Oklahoma, and California until the government was able to move them out to hundreds of shelters nationwide. Most are held in detention centers for an average of 45 days before they can be placed with a family member or friend as they await an immigration hearing. Some languish for months inside the detention centers, despite having committed no crime other than seeking protection.

Many live in constant dread of deportation, considering a ticket back home as good as a death warrant. And for some of them it is. The morgue director in San Pedro Sula told the Los Angeles Times in August that of the 42 children his morgue has taken in since February, at least one was definitely

deported from the United States. The LA Times reports that one El Salvador teenager they spoke with says his cousin was shot dead within hours of being deported by the U.S.

Unaccompanied children are expected to navigate complicated legal proceedings, often without the help of an immigration attorney. In one particularly Kafkaesque case, the United States essentially required a three-year-old El Salvadorian boy named Arturo to represent himself in his

immigration proceedings. Arturo was conceived when his mother was raped when she was only 15 years old. Facing continuing threats from her rapist, Arturo's mother escaped to the United States, leaving her son in the care of her sister. However, Arturo's family continued to fear for his safety in El Salvador and brought him to the border in Texas to reunite him with his mother. U.S. immigration officers took Arturo into custody and put him into deportation proceedings on his own.

The ACLU Immigrants' Right Project and several other immigrants' rights organizations filed a class action lawsuit in October on behalf of Arturo and other unaccompanied minors, seeking to ensure that all children in immigration court have legal representation.

### Family Detention in New Mexico

In addition to unaccompanied minors, the U.S. government keeps thousands of parents with young children in special family detention facilities in Pennsylvania and Texas with a temporary facility at FLETC in Artesia, New Mexico. The Artesia facility lies in a remote part of the state with only one immigration attorney within three hours' drive of the city. When it first opened, it functioned as little more than a deportation mill, never giving the people detained there a fair opportunity to seek asylum. In August, the ACLU of New Mexico, the ACLU Immigrants' Rights Project, the American Immigration Council, the National Immigration Project of



*New Mexico community members hold a candlelight vigil outside of the temporary family detention center in Artesia, NM in November.*

*Continued on page 4*

## Executive Director's Notes:

### Mass Incarceration Massively Out of Control



**PETER SIMONSON**  
*Executive Director*

Recently I attended a presentation by researchers from the National Academy of Sciences on the release of their landmark study, *The Growth of Incarceration in the United States*. Roughly 400 pages long, the report is the most comprehensive analysis of mass incarceration in the U.S. ever compiled. Many of the findings repeat what other experts have said, but the figures never fail to astonish:

- The U.S. has less than five percent of the world's population but nearly 25 percent of the world's prisoners.
- U.S. incarceration rates are 5 to 10 times higher than rates in any Western European democracy.
- Young, African American men who drop out of high school have a 68 percent chance of being imprisoned, compared to 28 percent for Whites and 20 percent for Hispanics.

The study describes the growth of U.S. incarceration rates over the last 40 years as "historically unprecedented" and "internationally unique." While changes in penal policy

have had devastating impact on poor communities of color, the magnitude of crime reduction benefits is, they say, "highly uncertain."

In short, the researchers paint a picture of the U.S. as wildly out of control where its criminal justice policies are concerned. Not surprisingly, the study attributes our irrational system to a "punitive political climate," the drug war and heightened sentences for non-violent crimes. But it never answers the question, why has the U.S. followed this extraordinary path while incarceration rates in other countries have remained relatively stable? Why is our nation so obsessed with punishment?

Perhaps we err in assuming that the true function of prisons is to deter crime, rehabilitate criminals or even to exact revenge. For French philosopher Michel Foucault—in his 1975 masterwork, *Discipline and Punish: The Birth of the Prison*—prisons came into being and spread during the 18th century because they served the critical function in capitalist society of efficiently extending state control throughout the masses. Not only did they underwrite a system that divides workers from criminals, undermining working class solidarity, but they also created the modern day "delinquent" as a target of scrutiny, study and normalizing interventions ("corrections"). Prisons thrive despite their poor record of reducing crime because they are a self-perpetuating system of social control.

That we need to reform our criminal justice system and reverse the growth in incarceration is no major revelation. What begs for more critical analysis are the assumptions we make about why these trends continue despite how irrational they seem. If we don't truly understand why our society is so addicted to punishment and "corrections," how successful will we be at arresting that system?

## Give the gift of liberty this holiday season!



What better way to show love to your friends and family this holiday season than to help make the state they live in a more free and fair place? The ACLU of New Mexico works through the courts, legislature, and public advocacy to protect the rights of all who live in our state. You can make a tax-deductible contribution to the future of freedom in New Mexico using the donation envelope included with your newsletter.

**Happy Holidays!**

#### ACLU OF NEW MEXICO BOARD OF DIRECTORS

Gary Mitchell, *President*  
Andrew G. Schultz,  
*Vice President*  
Kevin Hoover, *Treasurer (Foundation)*  
John Salamack, *Treasurer (Union)*  
Ellen Bilodeau, *Secretary*  
Mark Ayers, *National ACLU Board Representative*  
John Briscoe  
Michelle Brown-Yazzie  
Karen Buller  
Gene Grant  
Stanley Hordes  
William M. Hudson  
Paulina Iñigo  
Tova Indritz  
Patricia D. Jones  
Gene Lindsay (Emeritus)  
Peter Ossorio  
Adriana Ramírez de Arellano  
Joe Sackett  
Patricia Steindler  
Frank Susman

#### ACLU OF NEW MEXICO LEGAL PANEL

George Bach  
Reber Boulton  
Phil Davis  
Jane Gagne  
Matt Garcia  
Laura Schauer Ives  
Julie Sakura  
Maureen Sanders

## NEW STAFF



**Evelyn M. Dulaney**  
Finance & Administrative  
Manager

Evelyn Madrid Dulaney has worked with ACLU on a contract basis since May of 2008 and joined the staff in June 2014 as the Finance and Administrative Manager. She obtained a Bachelor's Degree with a major in Accounting from the UNM Anderson Schools of Management. She is currently licensed as a CPA in New Mexico and Texas. She has worked with 20+ non profits to provide accounting, administrative, and human resource services. She spent six years working as the Director of Finance for the Supportive Housing Coalition and three years as the CFO for St. Martin's Hospitality Center. Evelyn serves on the Finance Committee of Albuquerque Healthcare for the Homeless and serves as Treasurer for the NM Crime Victims Advocacy Center.

## Family Detention

*Continued from page 2*

the National Lawyers Guild, and the National Immigration Law Center filed a lawsuit, *M.S.P.C v. Johnson*, against the center, challenging its policies denying a fair deportation process to the mothers and children held there (See the feature on page 5 for more details on the lawsuit).

The ACLU of New Mexico legal department and the Regional Center for Border Rights (RCBR) also began sending staff to the facility once every two weeks to monitor conditions inside. What the mothers reported was disturbing.

"This is not a good place for children," Marta told the ACLU of New Mexico. "As soon as we arrived here my daughter stopped eating. I can't get her to eat the food here. They serve the meat still bloody and raw, and the food is sometimes still frozen when they give it to us. She only drinks a little juice and eats a little dried cereal at breakfast. When we left Honduras she was 56 pounds. After four months in here, she now weighs 37."

Increasingly alarmed by Rosa's dramatic weight loss and deteriorating health, Marta secured a doctor's visit. The doctors said the only thing they could do beyond forcing a feeding tube down her throat was to recommend she drink a lot of fluids. Marta says that Rosa's mental health has worsened in detention as well.

"She has nightmares in the night," said Marta. "She's very depressed and sleeps 12-14 hours a day. Every day she tells me, 'Let's leave, mama.' I always say to her, 'Tomorrow.'"

Most of the mothers the ACLU of New Mexico spoke with in the Artesia facility reported that their children suffered similarly in detention.

Despite the continuing miseries of detention, many of the mothers have reported that conditions and treatment in the Artesia facility have improved since the ACLU began monitoring and public scrutiny increased. Thanks to dedicated teams of pro bono immigration attorneys who travel to Artesia from all over the United States, many are finally getting to bond out of the facility after three to four months in detention.

### Family Detention For Profit

In November, the U.S. government announced that it would close the Artesia detention facility by the end of the year. The mothers and children held there at the time of its closing will be transferred to a giant new 2,400-bed facility in Dilley, TX 70 miles southwest of San Antonio. The new facility will be run by the Corrections Corporation of America (CCA), notorious for the unconstitutionally substandard and oftentimes dangerous conditions in their facilities. CCA also ran the failed Hutto Family Residential Center in Taylor, TX where immigrant families were detained until an ACLU lawsuit alleging human rights abuses, improper education-

al opportunities, lack of privacy, and substandard health-care prompted the Obama administration to shutter the facility in 2009.

"It's good that these families won't be in the Artesia facility any more, but it's just a lateral move," said RCBR director Vicki Gaubeca. "It isn't possible to put families behind barbed wire in a humane manner. We saw that at the Hutto facility, we saw it at Artesia, and we'll continue to see it moving forward at the Dilley facility. It's just inherently wrong to put vulnerable, often traumatized mothers and children in prison-like conditions and truly unconscionable to let a corporation as abusive as CCA profit off of their misery. As a nation, we need to stand up and say 'no more.'"

### What Kind of Nation Do We Want to Be?

Marta and Rosa were able to bond out of the Artesia facility in November and are now staying with relatives in the east while she awaits her immigration hearing. Marta reports that Rosa is much happier and recovering her health. But she wonders why she and Rosa had to endure it all in the first place. Why was her seven year old child locked up when she had done nothing wrong? Why couldn't they have just been processed by immigration and released into the care of relatives?

She could have. Humane alternatives to detention already exist, and they're effective and vastly less expensive. Immigration and Customs Enforcement's current alternatives have a very high compliance rate—99 percent of enrollees appear at all court hearings—and start at just pennies per

day. Family detention currently costs \$266 per person per day.

Given these facts, it's obvious that the practice of family detention is purely punitive and political in nature, and does not serve any morally defensible practical purpose. The United States of America has a historic commitment to protecting people fleeing violence and oppression. We should honor this tradition by not locking up mothers and children who are only seeking safety from a problem we helped to create.

How we choose to respond to the children and families who show up at our border asking for refuge says a lot about who we are as a nation. We have a chance to do the right thing this time: to treat the people seeking our help with basic compassion and human dignity. Unfortunately, the way we've reacted thus far demonstrates not only a fundamental misunderstanding of the current humanitarian situation at our border, but raises serious concern that we have lost our capacity for compassion and abandoned our values by failing to treat these children in the way we would want our own treated.

Better ways to hold families accountable to immigration law already exist, and the ACLU of New Mexico is committed to working through litigation and policy advocacy to make sure that the rights and humanity of people like Marta and Rosa are not casualties in the U.S. government's rush to respond to this latest Central American refugee crisis.



**"This is not a good place for children."**

*NOTE: Migrants' names were changed in this article to protect individuals' privacy and prevent retaliation against them.*



**O**n August 22, the ACLU of New Mexico along with the ACLU Immigrants' Rights Project, the American Immigration Council, the National Immigration Project of the National Lawyers Guild, and the National Immigration Law Center filed a lawsuit against the federal government, alleging that the Obama administration violated long-established constitutional and statutory law by enacting policies that have:

- **Categorically prejudged asylum cases** with a "detain-and-deport" policy, regardless of individual circumstances.
- **Drastically restricted communication** with the outside world for women and children held at the remote detention center, including communication with attorneys. If women got to make phone calls at all, they were cut off after three minutes when consulting with their attorneys, which made it impossible to prepare for a hearing or get legal help.
- **Given virtually no notice to detainees of critically important interviews** used to determine the outcome of asylum requests. Mothers have no time to prepare, are rushed through their interviews, are cut off by officials throughout the process, and are forced to answer traumatic questions, including detailing instances of rape, while their children are listening.
- **Led to the intimidation and coercion of the women and children** by immigration officers, including being screamed at for wanting to see a lawyer.

The plaintiffs include:

- **A Honduran mother who fled repeated death threats** in her home country to seek asylum in the United States with her two young children. The children's father was killed by a violent gang that then sent the mother and her children continuous death threats. When she went to the police they told her that they could not do anything to help her. It is common knowledge where she lived that the police are afraid of the gang and will do nothing to stop it.
- **A mother who fled El Salvador with her two children because of threats by the gang that controls the area where they lived.** The gang stalked her 12-year-old child every time he left the house and threatened kidnapping. She fears that if the family returns to El Salvador, the gang will kill her son. Some police officers are known to be corrupt and influenced by gangs. The mother says she knows of people who have been killed by gang members after reporting them to police.
- **A mother who fled El Salvador with her 10-month old son after rival gangs threatened to kill her and her baby.** One gang tried to force the mother to become an informant on the activities of another gang, and when she refused, told her she had 48 hours to leave or be killed.

## First Step Forward

*Continued from page 1*

**Curtailing use of force:** the agreement requires APD to emphasize the use of de-escalation techniques, minimize the use of force where appropriate, revise and develop new use of force policies, provide additional training on use of force, prohibit firing at moving vehicles, and makes use of body-worn cameras mandatory and subject to discipline upon failure to use.

**Reigning in specialized units:** the agreement eliminates the problematic "Repeat Offender Project" unit, and requires APD to develop clearly defined missions and duties for specialized tactical & investigative units, improve criteria and selection for assignments to specialized units, document all tactical unit deployments, and review all deployments to identify policy, training, equipment, or tactical concerns.

**Improve crisis intervention:** the agreement calls for APD to establish a mental health response advisory committee, provide behavioral health training to dispatchers, expand the number of officers certified in crisis intervention, expand the number of detectives assigned to the crisis intervention unit, and collect and analyze data to improve response to crisis situations.

**Revised policies and training:** the agreement requires that APD develop and revise policies and training programs to ensure compliance with the settlement agreement.

**More robust misconduct complaint intake, investigation, and adjudication:** the agreement forces APD to fully and fairly investigate all allegations of officer misconduct and take corrective and disciplinary action when warranted, as well as agree to accept 3rd party anonymous complaints against officers, implement a public information program on civilian complaints, and prohibit all forms of retaliation against people who report misconduct.

**Stronger staffing, management, and supervision:** the agreement requires APD to set supervision levels, strengthen supervisor training, improve the early intervention system with problem officers, and requires officers to use on-body recording systems.

**More stringent recruit screening:** to better screen out problem officers, the agreement requires APD to ensure that candidates for sworn personnel positions, including lateral hires from other departments, undergo psychological, medical, and polygraph examination. The agreement also requires that APD conduct pre-employment investigations of lateral hires, including their history of using force.

*Continued on page 6*

## 2015 Legislative Session



**I**t's almost that time again! Starting January 20, the 2015 New Mexico legislative session will commence, kicking off 60 days of lawmaking. As always, the ACLU of New Mexico will be there at the Roundhouse to fight bad laws and promote laws that protect your civil liberties.

### Issues to watch in 2015:

**Prison Sexual Assault:** New Mexico has some of the worst rates of sexual assault in its correctional facilities. We'll be working with lawmakers to protect incarcerated and jailed people from sexual abuse at the hands of guards and other prisoners.

**Civil Asset Forfeiture:** police departments are using legal loopholes to profit off of asset seizures without ever charging anyone with a crime. We're working on legislation to close these loopholes.

**Parental Notification/Consent:** every year anti-abortion legislators try to make it harder for young women to access to abortion care by forcing them to notify/get permission from a parent. We're going to fight hard to block this harmful and intrusive legislation again this year.

**Voter ID:** We may see another push to limit the voting rights of New Mexicans by making government-issued photo ID mandatory at the polls. We will work to ensure that politicians won't suppress votes by erecting unnecessary barriers to exercising the fundamental right to vote.

## First Step Forward

*Continued from page 5*

**Better mental health services and counseling for officers:** to help ensure that officers in high stress positions stay healthy and stable, the agreement requires APD provide officers with ready access to mental health and support services.

**Heightened community engagement:** to keep officers better connected with and accountable to the communities they serve, the settlement agreement requires that APD promote community and problem-oriented policing, conduct outreach to inform the public of APD's reform progress, develop community policing councils, maintain a civilian police oversight agency that conducts meaningful, independent investigations of all citizen complains, and reviews serious uses of force and officer-involved shootings.

**Establishes mechanisms for implementation, monitoring and oversight:** to ensure compliance with the agreement, the DOJ will select a monitor to assess APD's progress via regular compliance reviews. The settlement agreement will not be terminated until APD has maintained substantial compliance for two consecutive years.

Overall, there are some very positive changes mandated by this settlement agreement. If APD complies with this agreement and gets buy-in from the police rank-and-file, this could go a long way to changing the culture of violence and excessive use of force that plagues the largest law enforcement entity in New Mexico.

The agreement is not perfect, however. There are places where the agreement could have been stronger. After the release of the settlement agreement, the APD Forward legal team, which includes several of the top civil rights attorneys in New Mexico, analyzed the document and found four areas where they felt the agreement could have gone farther. We believe that:

- The body-worn camera policy doesn't go far enough
- The agreement doesn't do enough to rein in the overuse and misuse of SWAT teams
- The agreement does not do enough to require consistent discipline for officers
- The agreement should explicitly require the federally appointed monitor to have a successful track record and come from out of state

Officer-worn cameras are essential when it comes to holding officers accountable and the policy needs to be as robust and strict as possible. Every single interaction officers have with the public—barring specific situations involving witness statements, confidential informant statements, victim statements, and encounters inside the home if the resident does want the encounter recorded—should be recorded and then retained for a substantial amount of time. Furthermore, failure to use the cameras must carry *specific*, mandatory, and serious consequences. No more excuses for failing to record life and death encounters with the public. Cameras protect citizens from police abuse and protect officers from false accusations of wrongdoing. They're a win-win for everyone.

Currently, the agreement leaves it up to APD to decide on what types of situations to deploy SWAT. We believe that APD should instead follow the nationally established best practices and standards for tactical team deployments. These deployments should also be limited to situations in which people's lives are in imminent danger—NOT routine police work. Too often SWAT teams are inappropriately deployed into situations where their hyper-aggressive, militarized posture unnecessarily escalates a situation to the point of violence. To help combat overuse and misuse of specialized units, we believe that APD should have to file a post-deployment report that provides specific justification for special units' deployment and accounts for any criminal evidence found during that deployment.



**ABOVE:** APD Forward legal team presents their analysis of the settlement agreement to the press. From left to right: Phil Davis, Francis Carpenter, Alexandra Freedman Smith, Nancy Koenigsberg, Shannon Kennedy, and Randy McGinn.

One of the most consistent problems with APD to date is the failure of leadership to hold officers accountable for wrongdoing. The vast majority of field officers in APD protect and serve the community with honor, bravery, and distinction. However, the few bad apples who are abusive and reckless never seem to get disciplined for their bad behavior. We want to ensure that APD can no longer look the other way when officers break the rules. Requiring reporting on officer discipline would allow the public to see that leadership is enforcing its own policies.

Finally, it's concerning that there is no language in the agreement requiring the federal monitor to have certain levels of qualification and experience overseeing departmental reforms of this nature. We also think that it is crucial that the monitor come from out of state to avoid even the perception of an inside connection to the APD.

While there are some areas that could use improvement, we hope this agreement and its enforcement by a federal monitor will change the pattern and practice of civil rights violations within the APD. Through our advocacy with APD Forward, we see our mission as making sure that our community fully seizes the potential of this moment so that we do not let this historic opportunity for real, concrete reform slip through our fingers. We expect this agreement to be in place for several years, and we are committed to holding the reform process accountable for as long it takes.

### WANT TO LEARN MORE?

Interested in learning more about police reform in Albuquerque and the ACLU of New Mexico's work with APD Forward?

Visit us online at [APDforward.org](http://APDforward.org):

- Read the full text of the settlement agreement between the DOJ and APD
- Access the APD Forward legal team's full legal analysis of the agreement
- Sign up for the APD Forward mailing list to get the latest news alerts



@APDForward



[www.APDforward.org](http://www.APDforward.org)

# The Seven Deadly Sins of Policing

By Dan Klein, retired Albuquerque Police Department Sergeant



I was a uniformed patrol officer and sergeant for twenty years with the Albuquerque Police Department (1983 to 2003), and I've been following the ongoing crisis with my former department very closely. As a former police officer and a longtime ACLU member, I am encouraged that the community is working hard to make our police department better. I am, however, often discouraged at how often we point the finger at the beat cops on the street. You see, the cop on the street doesn't create the department's culture, the department's leadership does. They don't make the laws they enforce, the officials elected by the community do.

And to put it bluntly, many of these laws I was asked to enforce during my twenty years on the force are bad laws, laws that criminalize people who are poor, homeless, mentally ill, or minorities. We send officers out into the community to enforce unjust laws, then we act surprised when it goes poorly. In many communities the police are viewed as an "occupying force." When we stop sending our police to enforce unfair and unjust laws, our police will become peacekeepers again.

Here are seven changes that politicians at every level of government need to make to fix the police crisis we find ourselves facing.

**1. Politicians must stop making laws, and repeal those in force, that make being poor, homeless, mentally ill, and a minority illegal.** These laws create show downs between police and the poor, a lose-lose situation for both sides. Better to create safety nets that the poor can turn to for help. Feeding the hungry, sleeping in your car, being mentally ill, and being a minority (stop and frisk) should never be a crime in any country, but especially not in America.

***"To put it bluntly, many of the laws I was asked to enforce during my twenty years on the force are bad laws, laws that criminalize people who are poor, homeless, mentally ill, or minorities."***

**2. End the war on drugs.** If a person's only charge is the possession of an illegal substance they should not be in prison or jail. They should be in treatment. America incarcerates more citizens than any other country. Put a drug possession offender in prison and I promise you will have a hardened criminal when they are released. Put them in rehab and we have the chance to make them a useful citizen again, and it's a lot cheaper.

**3. Repeal all laws directed at morality and regulate them instead.** Just the like war on drugs, the war on prostitution has failed. Learn from the folks in Nevada and regulate prostitution. This makes for a safer work environment for the sex worker and for their customer. Studies have shown where prostitution is legal and regulated the spread of STD's is much lower and the incidents of rape drop dramatically. Putting sex workers and "johns" in jail is wrong.

**4. Repeal all civil asset forfeiture laws that allow law enforcement to seize citizens' assets without ever charging them with a crime.** We also must change all other civil asset seizure laws so that law enforcement agencies cannot ever directly benefit from seizing citizens' assets. Law enforcement agencies regularly exploit these laws to swell their own coffers, abusing citizens simply to seize their property. These laws are a travesty

to Due Process, and turn police officers into back-door tax collectors at best, and highway robbers at worst.

**5. Put an end to private prisons.** Prisons should always be run by the government, not by private industry. In some communities private prisons are a major economic engine and therefore politicians are tempted to make more laws that criminalize people to fill the beds in private prisons. Take this industry and change it to focus on rehabilitation.

**6. End the use of military trainers for law enforcement.** Soldiers are "warriors," police officers are "peace keepers." The military should never train law enforcement because they do not have the proper background. Albuquerque is not Fallujah. New York is not Baghdad. The police do not "occupy" the United States; the police serve the citizens. Change the training of local law enforcement back to focus on peace keeping and they will be viewed differently in their community. Change the focus of training back to peace keeping and the police officer will view himself/herself differently.

**7. We must police the police chiefs.** These are the people we expect to hold our officers to higher standards, so

we must in turn hold them to the same high standards. That responsibility falls to the elected leaders who appointed them. Our communities must have zero tolerance for misconduct of any kind at the leadership level in policing. One place we've seen questionable conduct at the leadership level in APD are the no-bid contracts awarded to companies like Taser. The military has the "military industrial complex," law enforcement has the "police industrial complex." Police chiefs often have a very cozy relationship with companies that manufacture law enforcement equipment. In

Albuquerque, the past police chief bought Tasers for all of his officers, while only training a fraction of his officers in how to diffuse crisis incidents. The result? Taser abuse, as reported by the Department of Justice, skyrocketed. Go figure. This chief went on to sign the largest contract in Taser history, \$1,950,000 for Taser cameras, not allowing any other company to even bid on the contract. Days after this chief retired he went to work for—you guessed it!—Taser.

The collapse of trust in our police does not begin with the officer on the beat, but with the politicians who enact unfair laws against the most vulnerable of our society, thereby placing police officers in direct conflict with the citizens they serve. We should not be surprised by bad outcomes when officers enforce these unfair laws. Change the laws, change the police. Politicians and the voters who elect them have created this crisis, it is up to them to fix it.

So long as the Department of Justice and our politicians, at all levels of government, continue to ignore these seven points, the officers on the beat will continue to have interactions with members of their community that will end in disaster. To expect anything else would be to place our heads in the sand. While the DOJ consent decree can force APD to make certain changes internally, until we roll back the bad laws officers are sworn to enforce, the problem will never truly be solved.

*"The law, in its majestic equality forbids the rich as well as the poor to sleep under bridges, to beg in the streets and to steal bread."*

- Anatole France, *The Red Lily*, 1894.



Join the ACLU of New Mexico

Online  
Community

Receive email alerts and take action on key civil liberties issues when it matters most.

Sign up at:

[www.aclu-nm.org](http://www.aclu-nm.org)

Make a difference today!

We're on facebook!



[www.facebook.com/aclunm](http://www.facebook.com/aclunm)

...and Twitter!



[www.twitter.com/aclunm](http://www.twitter.com/aclunm)

## Sandy Brickner Remembered

One of New Mexico's finest civil libertarians has left us.

Sanford "Sandy" Brickner, one of the ACLU of New Mexico's most stalwart supporters, a dedicated teacher, and a passionate advocate of the First Amendment, passed away on November 12.

Sandy attended UCLA Law School and went on to a successful career in law for more than 20 years in southern California. Upon retirement, Sandy moved to Santa Fe New Mexico with his wife Jane Kantor Brickner where he spent the next 30 years teaching skiing at Ski Santa Fe and volunteering with non-profit organizations.

One of the organizations with which he was so generous with his time, treasure, and talent was the ACLU.

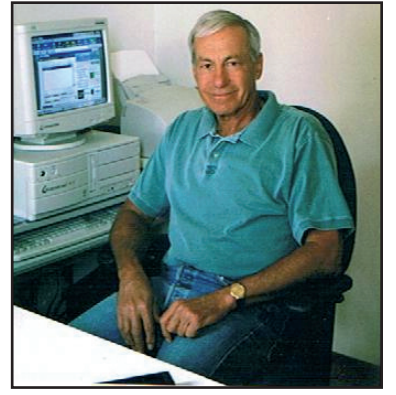
"There are few organizations that are so insistent on preserving our civil liberties and enforcing the Bill of Rights," Sandy told *The Torch* in a 2007 interview. "America is as great a country as it is because of the Bill of Rights and the ACLU's enforcement of them."

Sandy was especially enthusiastic about teaching young people about the importance of the U.S. Constitution. Concerned that teens weren't really learning about the Constitution in school, Sandy started writing a weekly column in the *Santa Fe New Mexican* aimed at teens called "Know Your Rights," where he talked about a variety of civil liberties issues, especially those relating to teens in public schools. Between 2003 and 2008, Brickner published a total of 196 "Know Your Rights" columns.

In 2005, the ACLU of New Mexico presented Sandy with the "First Amendment Award" for his work educating teens about their rights and why the Constitution matters.

"Sandy Brickner was a great friend to civil liberties and an ardent lover of life," said Susuan Herman, president of the national ACLU. "I am glad that I had the opportunity to meet him, and his lovely wife Jane, to talk about our shared commitment to the ACLU – as well as skiing, art, travel, and so many other topics. We will miss him and we will carry on our work in his memory."

Reportedly his last words a few hours before his death were, "I'm so lucky." We too are lucky; lucky to have had Sandy as such a staunch supporter and fellow traveler for so many years.



## ACLU Board of Directors Notice of Elections, 2015

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

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

The ACLU-NM office must receive statements of interest/signed petitions by January 31, 2015. Nominees' names will be placed on the election ballot and their statements will be published in the next issue of the ACLU-NM's quarterly newsletter, *The Torch*.

Please mail petitions and statements to:

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

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

Ballots and statements of interest will be mailed to members at least two weeks prior to the election. The election will be held on March 31, 2015.

CONTACT THE ACLU OF NEW MEXICO

[www.aclu-nm.org](http://www.aclu-nm.org)

American Civil Liberties Union of New Mexico  
PO BOX 566  
Albuquerque, NM 87103  
[info@aclu-nm.org](mailto:info@aclu-nm.org)  
Tel: (505) 266-5915  
Fax: (505) 266-5916

Regional Center for Border Rights  
Las Cruces, NM  
Tel: (575) 527-0664  
Fax: (575) 527-0111