

ACLU Joins Lawsuit Challenging Raids of Concerts and Violation of Free Speech

Utah Court's Ruling Upholding Use of 12-Hour Ordinance is Disappointing, Says ACLU

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SALT LAKE CITY -- The American Civil Liberties Union announced today that it would join a lawsuit challenging law enforcement raids of electronic music concerts. The suit charges local law enforcement engaged in widespread violations of the constitutional rights of concert promoters and venue owners during concerts on July 16 and August 20.

The ACLU also expressed disappointment with last Thursday's ruling by United States District Judge Dale Kimball to deny a motion that would have temporarily barred law enforcement from imposing its own interpretation of a Utah County ordinance requiring permits for mass gatherings lasting more than 12 hours. The ACLU is concerned that law enforcement's interpretation of the ordinance is a pretext for eliminating electronic music concerts altogether.

"Utah County's actions strike at the heart of First Amendment freedoms," said ACLU of Utah attorney Margaret Plane. "The ACLU is joining this fight to help protect our fundamental rights from this kind of unjust law enforcement action."

During the August 20 concert, battle-ready Utah County law enforcement officers, accompanied by police dogs and a helicopter, stormed concertgoers and threatened some with arrest. Both concerts took place in Spanish Fork Canyon – an area south of Provo, Utah. The owners of the 350-acre ranch, which has hosted several concerts over the last three summers, were also ordered off the land. Police did not have warrants to enter the land or to search concertgoers at either event. The raid on August 20 was recorded on a video, which has since been widely disseminated.

"It was like a war zone. I've never seen anything like it," said one of the concert promoters, Brandon Fullmer. "Although I plan to organize more concerts, I know lots of people would be afraid to come because of the police raid and, honestly, I am afraid too."

Utah County Sheriff James Tracy, one of several defendants in the suit, authorized and implemented the August 20 raid based largely on the presumption that the concert would continue beyond the 12 hours for which promoters had secured necessary permits. The police entries, however, occurred only two to three hours into each concert. In fact, the concert was not scheduled to run beyond 12 hours, nor were any event staff contracted to work beyond 12 hours. The promoters, additionally, had assured the property's owners in advance that the concert would not last 12 hours.

At no point did police ask the promoters or property owners how long the August 20 concert would run, nor did they request the acquisition of further permits. While police claim to have conducted a handful of undercover drug buys at the event, these did not, according to the lawsuit, justify the termination of the concert and forceful dispersal of the roughly 700 people in attendance.

“The sheriff misinterpreted and wrongly applied an overly vague ordinance, which unfortunately, remains intact,” said ACLU cooperating attorney Brian M. Barnard. “No promoter or venue can successfully put on concerts if they never know when or why the cops will end an event.”

The case is *UpRock v. Tracy*. In addition to Sheriff Tracy, the defendants in the current case are Lt. Grant Ferre of the Utah Sheriff Department, Utah County Attorney Kay Bryson, Utah County Commission Chair Jerry Grover, Utah County Commissioner Steve White, Utah County Commission Vice Chair Larry Ellerton and Utah County itself. The case was filed on behalf of promoters Fullmer and Nick Mari and landowners the Childs’ Family Trust.

Video of the August 20 raid may be viewed online at:

http://stream.realimpact.net/?file=clients/aclu/Rave_Police_Raid.wmv&type=wmv

The complaint in the case is available at: <http://www.acluutah.org/uprockcomplaint.pdf>

Affidavits of plaintiffs Fullmer and Trudy Childs are available at:

<http://www.acluutah.org/fullmer.pdf>; and <http://www.acluutah.org/childs.pdf>

Judge Kimball’s ruling is online at: <http://www.acluutah.org/uprockorder.pdf>

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