

# TOGETHER WE STAND



The ACLU of Utah  
2016 Annual Report



# ACLU OF UTAH

## 2015-16 ANNUAL REPORT



**Above:** ACLU of Utah staff, board, members, supporters and volunteers at the 2016 Utah Pride Parade in Salt Lake City.

## ACLU STAFF

**Executive Director** Brittney Nystrom

**Legal Director** John Mejia

**Legislative & Policy Counsel** Marina Lowe

**Staff Attorney** Leah Farrell

**Strategic Communications Manager** Anna Brower Thomas

**Development Director** Cassie Taylor

**Office Manager** Reinard Knutsen

**Coordinator of Administration & Finance** Jessica Andrews

**Paralegal** Margie Nash

**Racially Just Utah Coordinator** Nubia Pena

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William A. Rudnick, DLA Piper LLP

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Lauren Wilchek, DLA Piper LLP

## INTERNS AND VOLUNTEERS

Melia Amos, Ariana Barusch, Roberto Burgos, Juan Guerrero, Emma

Halling, Justin Hamady, Kara Hetrick, Erica Janicki, Diane Keech,

Run-Zhi Lai, Melanie Martin, Erica Martinez, Hannah Nerone, Katie Panzer,

Ruby Samuel, Josh Scheuerman, Sam Stott, Rachael Sutherland, Delaney

Woodfield, Kathy Zhou

**Top:** Salt Lake Peer Court director Kayley Richards joins Nubia Pena, Anna Brower Thomas and Leah Farrell to celebrate Nubia's swearing in as a member of the Utah State Bar.

**Middle:** Supporters and team members for the ACLU of Utah lawsuit against the state of Utah over the failing indigent defense system.

**Bottom:** ACLU of Utah volunteers and staff at the 2016 Bill of Rights Celebration.





# What a year.

As my first year as Board President is coming to a close, it is my great honor to present you with the ACLU of Utah's 2016 Annual Report. Before diving into the highlights from 2016, however, I would like to take a moment to acknowledge one of the most significant events of this past year.

As you know, my dear friend and our dedicated Executive Director of ten years, Karen McCreary, retired this past summer. Karen worked tirelessly to transform the ACLU of Utah from a small nonprofit with a meager staff to the powerhouse organization that it is today. She created the ACLU of Utah's legal department and brought on two full-time attorneys, cemented the ACLU's status as the leading authority on and defender of civil liberties at the legislature and in the courts, and forged lasting partnerships and alliances that have allowed the ACLU to transcend party lines, religious groups and geographic distances.

We knew it would be nearly impossible to fill Karen's impressive shoes, so we are thrilled to have found an incredibly qualified successor in Brittney Nystrom, who joined our team as the new Executive Director in August. Born and raised in Ogden, Brittney is returning to Utah via Washington, D.C., where she was the Director of Advocacy for Lutheran Immigration and Refugee Service. With extensive experience in both policy advocacy and litigation, as well as an outstanding history of championing the rights of some of our most marginalized communities, Brittney brings a wealth of knowledge, skill and passion to the position.

I know I speak for the rest of the board and staff when I say that we are delighted to be working with Brittney as we continue to advance towards greater civil liberties and justice in Utah.

So, on behalf of our entire ACLU of Utah community...***Welcome, Brittney!***



**Michael Weinholtz**  
**Board President**



**Brittney Nystrom**  
**Executive Director**

Dear Friends,

It is an immense honor to be back in my home state as the Executive Director of the ACLU of Utah. It is no secret that the staff of the ACLU of Utah are deeply talented and relentlessly passionate about fighting for the civil liberties and rights of everyone in our great state. Joining them in this effort at such an important time is a true privilege.

Since coming on board in August, I have been impressed with the breadth and depth of the issues that the ACLU of Utah fearlessly tackles. In 2016, we were active in the courts in numerous cases, such as preventing the disenfranchisement of Navajo voters in San Juan County, challenging the state's failure to provide adequate legal representation to those who cannot afford an attorney, and protecting the privacy of Utahns' digital medical records.

We also persuaded lawmakers to pass several favorable laws, including measures to protect children from lifetime sentences without the possibility for parole, to improve workplace accommodations for pregnant and nursing mothers, and to begin to address the state's failure to meet the Sixth Amendment's guarantee of the right to counsel for all.

As this year's theme suggests, the ACLU of Utah stands for everyone. And we certainly don't stand alone—I am thrilled to join a powerful community of civil liberties champions and look forward to standing together with each of you as we continue critical fights and wage new battles in the name of equality, justice and liberty.

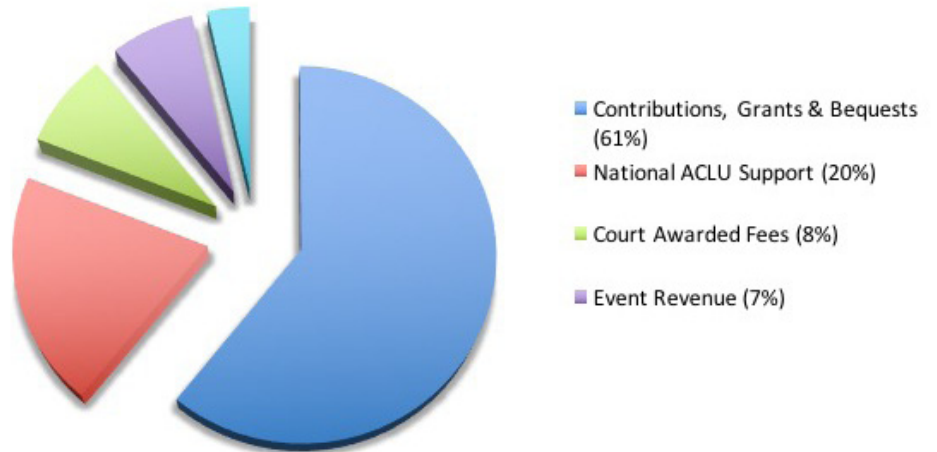
# Now let's get to work!

# FINANCIAL INFORMATION FY2016

(April 1, 2015—March 31, 2016)

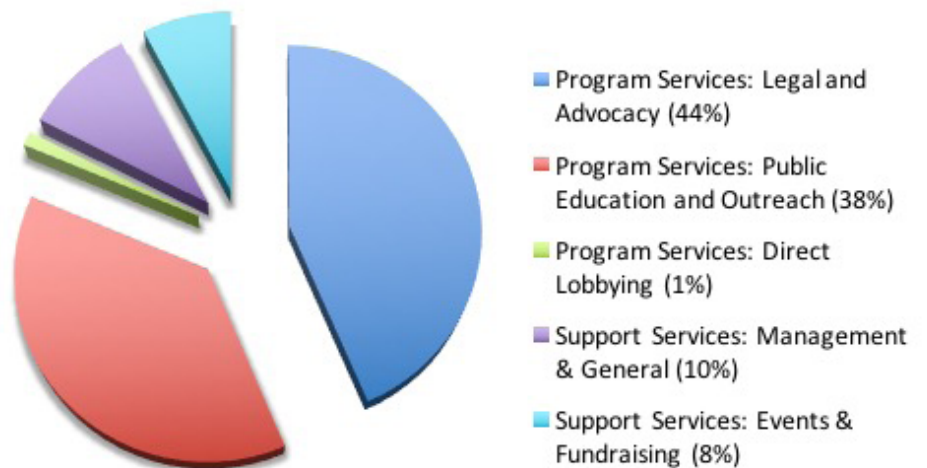
## SUPPORT & REVENUE

(Total: \$1,120,809)



## EXPENSES

(Total: \$938,801)



# 1776

DONORS FROM **25** COUNTIES

TIMES FEATURED IN LOCAL  
OR NATIONAL MEDIA:

# 2539

# 29

COOPERATING & VOLUNTEER ATTORNEYS  
CONTRIBUTED **THOUSANDS** OF HOURS OF  
LEGAL EXPERTISE & ASSISTANCE

RESPONDED TO

# 855

COMPLAINTS & REQUESTS  
FOR ASSISTANCE

# 4500+

COMMUNITY MEMBERS ATTENDED

# 77

PUBLIC PRESENTATIONS  
AND EVENTS WE HOSTED  
OR PARTICIPATED IN

# 65

STATE BILLS  
TRACKED &  
ACTIVELY  
WORKED ON

# 14

POSITIVE  
BILLS  
PASSED

# 4

NEGATIVE  
BILLS  
STOPPED

# 10

LAWSUITS IN ACTIVE LITIGATION  
IN DISTRICT OR APPEALS COURTS

## BY THE NUMBERS

*Together we stand for...*

# CRIMINAL JUSTICE REFORM

Criminal justice reform remained a top priority in 2016. We convened our second annual Faith In Reform Mini-Summit, as part of a diverse coalition including Calvary Baptist Church, Weber State University's American Democracy Project, the Catholic Diocese of Salt Lake City, the Utah Prisoner Advocate Network and more. Nearly 100 activists, advocates, faith leaders, correctional professionals and members of the public joined us at Weber State University in Ogden to discuss ongoing efforts to change Utah's criminal justice system.

We came shockingly close to passing legislation, sponsored by Senator Steve Urquhart of Saint George, to end the practice of government-sponsored execution in our state. Our team of death penalty abolitionists came within one vote of ending state-sponsored executions in Utah, when we ran out of time in the legislative session.

We saw significant progress toward the decriminalization of medical marijuana, and fought hard to build momentum toward ending discrimination against people with past criminal convictions in both housing and employment.

## ENDING LIFE WITHOUT PAROLE FOR YOUTH

**HB 405: PASSED!**

Sponsored by Rep. Lowry Snow (R-Saint George) and Sen. Daniel Thatcher (R-West Valley), HB 405 prohibits sentencing an individual under 18 years of age to life in prison without the possibility of parole.

## REDUCING SENTENCES FOR LOW-LEVEL OFFENSES

**SB 187: PASSED!**

Sponsored by Sen. Daniel Thatcher (R-West Valley) and Rep. Brian King (D-Salt Lake City), this ACLU-supported bill reduces certain misdemeanor offenses to mere infractions, which carry no jail time and only minor fines.



**Above:** Community members rally at the Utah State Capitol in opposition to the death penalty.



## REMICK v. UTAH

On June 21, 2016, the ACLU of Utah and co-counsel Holland & Hart, LLP, filed a class action lawsuit against the state of Utah for failing to meet its obligations under the U.S. Constitution to provide suitable public defense statewide.

Approximately 80% of those facing criminal charges in Utah are unable to afford an attorney while also providing for their everyday living expenses. Under the Sixth Amendment, Utah has an obligation to ensure effective legal counsel to those individuals. Instead, the state has ignored its responsibility and currently provides no funds or assistance of any kind.



**Above:** Members of the ACLU of Utah staff participate in the press conference at the law firm of Holland & Hart announcing the filing of Remick v. Utah.

## INDIGENT DEFENSE COMMISSION

During the 2016 legislative session, we worked closely with numerous partners and stakeholders to help develop policies that would better address Utah's devastatingly inadequate indigent defense system. The result of these efforts was SB 155, which created an advisory commission with the goal of eventually setting standards for the provision of indigent defense in Utah and the possibility of additional funding sometime in the future. Unfortunately, the commission promises only the potential for possible improvements down the road of a system that is in crisis and needs fixing now.

Thanks to strong advocacy organized by the ACLU of Utah, this brand new commission is free of active government prosecutors. We will continue to push the commission and legislature to create more meaningful - and immediate - improvements to this failing system!

*Together we stand for...*

# the RIGHT to LEGAL COUNSEL

*Together we stand for...*

# RACIAL JUSTICE

In early 2016, we settled a long running lawsuit against several police agencies and the Salt Lake City School District over a 2010 “gang sweep” conducted at West High School during school hours.

The original lawsuit, *Winston v. SLCPD, et al*, was filed in 2012 by the ACLU of Utah and the ACLU Racial Justice Project, on behalf of several students caught up in the operation. The students were detained, interrogated, photographed, and documented as part of the “gang sweep.” After nearly five years, the lawsuit finally drew to a close with a promising settlement agreement with the SLC Police Department and Salt Lake City School District.

The school district and police committed to making broad and meaningful changes in their treatment of students and engagement in school disciplinary issues, particularly involving students of color. We are looking forward to monitoring the progress of these efforts.

## RACIALLY JUST UTAH

In 2013, the ACLU of Utah helped to establish Racially Just Utah (RJU), a multicultural and multiracial coalition, with the goal of working towards racial equity in Utah. We continue to be a key RJU partner, funding the coalition’s part-time program coordinator.

As part of RJU, the ACLU of Utah regularly partners with Salt Lake Peer Court, Spy Hop, Planned Parenthood Association of Utah’s Teen Council, and others to offer community events that address racial justice issues such as police violence in communities of color and the School-to-Prison-Pipeline. This year’s events included a Youth Leadership and Activism Conference, #RaceMattersUtah (a night of artistic expression), and the School-to-Prison Pipeline Symposium at the University of Utah’s SJ Quinney College of Law.



**Above:** Leah Farrell and Karen McCreary present an award to Lisa, Kevin and Kaleb Winston - our plaintiffs in the case against Salt Lake City School District - at the 2016 Bill of Rights Celebration.

**Below:** *Damon Harris, a local activist with Cop Watch and founding member of the Community Coalition for Police Reform, leads a rally to demand police accountability. (Photo by Cheryl Stout)*



Since the summer of 2015, the ACLU of Utah has been working closely with local grassroots activists from a variety of advocacy groups - Cop Watch Salt Lake City, the United Front Civil Rights Organization, Utahns for Peaceful Resolution, Stand Up for Racial Justice - to push for concrete reforms in local law enforcement agencies.

Many leaders of these groups came together to form the Community Coalition for Police Reform, which reacted swiftly in the aftermath of the February 2015 shooting of Abdi Mohamed, a 17-year-old Somali refugee, in downtown Salt Lake City. The incident, which left Abdi in a coma for several weeks and spurred more than 1,000 people to protest, was recorded by the officers' body-mounted cameras.

The ACLU of Utah and cooperating attorney David Reymann submitted an official request that body camera footage of Abdi's shooting be made public under Utah's Government Records Access & Management Act (GRAMA). Despite clear language in newly adopted state law regarding body camera footage, Salt Lake County has refused to release the footage. Our push for transparency will continue into 2017.

### **MODEL POLICIES FOR USE OF BODY-WORN CAMERAS BY LAW ENFORCEMENT**

**HB 300: PASSED!**

After years of work with various stakeholders, the ACLU of Utah helped to shape and eventually supported legislation to establish statewide standards for the use of body cameras. HB 300, sponsored by Rep. Dan McKay (R-Riverton), made clear that footage of critical incidents must be treated as public documents under GRAMA.

### **CLEAR ROLES & TRAINING FOR SCHOOL RESOURCE OFFICERS**

**HB 460: PASSED!**

Sponsored by Rep. Sandra Hollins (D-Salt Lake City), HB 460, "School Resource Officers and School Administrators Training & Agreement," requires better and more consistent training and contracting for police officers working in schools.

*Together we stand for...*

# **FAIR & JUST POLICING**



*Together we stand for...*

# ACCESS to the BALLOT BOX

The ACLU of Utah joined with the Lawyers' Committee for Civil Rights Under Law and DLA Piper LLP to sue San Juan County, Utah, on behalf of the Navajo Nation Human Rights Commission (NNHRC) and seven members of the Navajo Nation. *NNHRC, et al v. San Juan County, et al* challenges the county's primarily mail-only voting system, which threatens to disenfranchise Navajo voters.

The case arises from the county's decision in 2014 to close all polling places and switch to a mail-only voting system. According to the Voting Rights Act, the county is required to provide all voting materials – including voting instructions and ballots – in both English and Navajo. Because Navajo is an unwritten language, the suit contends that the mail-only ballot system fails to fulfill the county's obligations.

Utah cannot properly honor the democratic process if the voices of Navajo voters are excluded. While we were not able to secure sufficient changes to the voting process before Election Day in 2016, the lawsuit will move forward to secure improvements for future election cycles.

## ELECTION DAY REGISTRATION

In 2016, the majority of Utahns were eligible to register to vote on Election Day, thanks to work by the ACLU of Utah! In 2014, after years of hard work in partnership with Rep. Rebecca Chavez-Houck (D-Salt Lake City), we finally saw the passage of HB 156, authorizing an Election Day Registration pilot program.

Now in the final year of the pilot program, Election Day Registration is available to the vast majority of Utahns, with eight of the largest counties in Utah voluntarily opting in. In the upcoming legislative session, we will be seeking to make Election Day Registration permanent and statewide.



*Above: A sign outside one of three hastily-proffered in-person polling places in San Juan County on primary Election Day, in response to pressure from our voting rights lawsuit.*



## **DRUG ENFORCEMENT ADMIN. v. UTAH DEPT. OF COMMERCE**

The ACLU of Utah and the national ACLU joined proceedings in federal court challenging the U.S. Drug Enforcement Administration (DEA)'s attempts to obtain access to Utahns' private prescription records from the Utah Controlled Substance Database (UCSD) without a warrant.

In 2015, the ACLU was instrumental in working with the legislature to amend the law that regulates access to the UCSD, requiring law enforcement officers to obtain a probable cause warrant from a court before gaining access to the database.

Despite Utah's new warrant requirement, the DEA seeks to access drug records in Utah's prescription database with an administrative subpoena. Unlike a search warrant, an administrative subpoena is not subject to judicial oversight or a showing of probable cause. The ACLU argues that the Fourth Amendment requires a warrant to access such intimately personal information and we have become parties to the litigation to ensure that the DEA is properly bound by the Constitution. The case will move forward in 2017!

### **DATABASE WARRANT REQUIREMENT** **SB 119: PASSED, THEN PROTECTED!**

SB 119, "Prescription Database Revisions," sponsored by Sen. Todd Weiler (R-Woods Cross) and passed into law in 2015, established a new warrant requirement for law enforcement searches of Utah's Controlled Substance Database. The ACLU of Utah and the Unified Firefighters' Union worked together during the 2016 interim session to protect the new warrant requirement from unnecessary exceptions.



**Above:** ACLU attorneys John Mejia, Nate Wessler and Leah Farrell stand with Jeremy Robertson (second from right), who represents the Unified Firefighters' Union, one of our plaintiffs in *Drug Enforcement Administration v. Utah Department of Commerce*.

*Together we stand for...*  
**the RIGHT to PRIVACY**

*Together we stand for...*

# WOMEN'S RIGHTS

The ACLU of Utah is accustomed to playing defense when it comes to women's rights - particularly those involving reproductive freedom. This year was no different, as we worked closely with ally Planned Parenthood Association of Utah to affirm access to safe and legal abortion for Utah women.

Since 2015, our staff has been engaged in seeking proactive advancement for women in the workplace. As part of the fledgling Utah Women's Coalition, we have actively lobbied for workplace accommodations for pregnant and nursing women and paid family leave for state employees. We also advocated for the Utah State Bar Association to allow accommodations for nursing mothers taking the bar exam. Despite the high birth rate in Utah, and the state's high prevalence of working mothers, the State Bar does not make special provisions for women to leave the exam to nurse or pump breast milk. We hope to see this change in 2017!

**A BETTER WORKPLACE FOR  
NURSING & PREGNANT  
EMPLOYEES**  
**SB 59: PASSED!**

SB 59, "Antidiscrimination and Workplace Accommodations Revisions," requires employers to provide reasonable accommodations for pregnant and nursing employees. This bill, sponsored by Sen. Todd Weiler (R-Woods Cross), will help to ensure that Utah women don't have to choose between working and having a family.

**AN ABORTION BAN IN  
DISGUISE**  
**HB442: DEFEATED!**

Sponsored by Rep. LaVar Christiansen (R-Draper), this bill would have essentially banned all non-surgical abortions currently available to Utah women. The ACLU of Utah's assertions to the unconstitutionality of the bill helped prevent it from even getting a hearing.



**Above:** Legislative and Policy Counsel Marina Lowe details several pieces of pending legislation at the 2016 Community Lobbyist Training.

# To our generous supporters:

All the work featured in this annual report - as well as many more efforts that are not included! - is possible thanks to the generosity of ACLU members and supporters. The ACLU of Utah is supported almost entirely by contributions from individual donors within Utah, as well as those from across the nation (through donations shared by our national ACLU office).

**Quite literally, we could not exist without your support!**

This year, in an effort to save paper and better direct resources, we are not able to list all of our many generous donors in this printed annual report. We appreciate each and every dollar that is given in support of our work.

# Thank you!

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**(\$75,000+)**  
Anonymous (2)

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**ADVOCATES**  
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275 donors

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1,332 donors



# Thank you for standing with us in defense of civil liberties!



Leah, Margie, Anna, Utah the ACLU Office Dog, Reinard, Marina, John, Brittney & Jessica

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