



ACLU of Utah *Reporter*

Spring 2012

Newsletter of the American Civil Liberties Union of Utah



**ACLU of Utah
2012 Bill of Rights
Celebration**

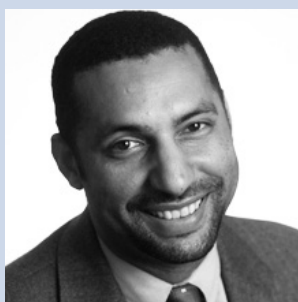
may 2

**at the Rail Event Center
(235 N. 300 W. in SLC)**

6:00 - Social / Cocktail Hour

7:00 - Dinner & Program

8:45 - Dessert & Music



Keynote Speaker

Spencer Overton, professor
at George Washington
University Law School, author
of ***STEALING DEMOCRACY: The
New Politics of Voter Suppression.***

All event details at
www.acluutah.org/bor2012/

Opponents of HB 497, “Show Me Your Papers Law,” Have Day In Court



**Plaintiffs and attorneys gather outside the courthouse after the hearing
on February 17**

A hearing for a preliminary injunction in the *Utah Coalition of La Raza (UCLR) v. Herbert* case took place on Friday, February 17, 2012. During the six-hour hearing arguments were presented to show the harms of HB 497. One of the most harmful consequences of HB 497 is a “Show Me Your Papers” practice that would require all individuals residing in or traveling through the state of Utah to carry documents showing their immigration status, even U.S. citizens. This type of practice magnifies the risk of racial profiling because lawful residents and U.S. citizens of color are more likely to be asked for proof of lawful status. Legal Momentum and Anti-defamation League, who both filed amicus briefs, also addressed the Court and discussed the harmful

impact of HB 497 on victims of crime and mixed status families. They also discussed the risk of racial profiling, especially to the Latino community and those who “look” Latino.

On Tuesday, February 21, the Federal District Court for the District of Utah, Judge Clark Waddoups decided to postpone making a decision in the *UCLR* case until the U.S. Supreme Court issues its decision in *Arizona v. United States*, which raises similar legal questions to the issues raised in *UCLR*. *Arizona v. United States* is the 2010 lawsuit against Arizona’s SB 1070 law, the precursor to the “Show Me Your Papers” copycat laws across the United States. In a written order, the Court states that both the *UCLR* case and the *Arizona v. United States* case address, “significant

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The Director's Chair



Karen McCreary
Executive Director

The New York Times and Utah media recently carried the story of widespread use of cell phone location tracking

by local law enforcement agencies across the country - sometimes with, and sometimes without, the use of warrants. The news reports grew out of information received through public records request made by 35 ACLU affiliates, including the ACLU of Utah, to 380 law enforcement agencies across the country. In Utah, we received responses from six agencies; the responses, as well as links to the *Times* article and an interactive map, can be found at acluutah.org. The results build support for federal legislation to require warrants based on probable cause: the Geolocation Privacy and Surveillance Act, led by Rep. Jason Chaffetz (R-UT) and Sen. Ron Wyden (D-OR).

This effort, as well as our legislative and legal progress, illustrates a key component of the ACLU's effectiveness: collaboration between state affiliates and the national ACLU. During the 2012 legislative session, we actively tracked, analyzed and lobbied close to 50 bills. Thanks to our working relationships with national ACLU attorneys who are following legislative efforts nationwide, we can respond knowledgeably and effectively to provide legal and strategic advice to our local elected officials.

In the litigation arena, we currently are partnering with the national ACLU in two matters: 1) *Utah La Raza v. Herbert* challenging HB 497, Utah's Arizona-style "show me your papers" law and 2) an investigation into the use of racial profiling in high school "gang sweeps." The latter highlights the tendencies of public schools to push students of color into the juvenile justice system, rather than meeting their educational and social development needs. Recently, the ACLU of Utah hosted

Dan Mach, the director of the ACLU Program on the Freedom of Religion and Belief. During his two-day visit to Utah, Dan addressed the Salt Lake City Rotarians, spoke with community and religious leaders about contemporary church/state challenges, and gave a lecture at Weber State University on the experience of religious minorities in the U.S.

In turn, our local successes benefit our ACLU colleagues across the country. For example, local staff members participate on panels at the ACLU national staff conference. Two of our board members, Jill Sheinberg and Iqbal Hossain, serve on the national ACLU board. Our members and supporters respond to national action alerts - in fact, last fall we contributed to the defeat of a so-called "Personhood Amendment" in Mississippi, through participation in a coordinated phone-banking outreach effort. Hooray for the ACLU - in every state! See you at our Bill of Rights Celebration on May 2nd!

Get Involved!

Sign up for our **EMAIL ACTION ALERTS** from our website at www.acluutah.org



Keep up-to-date with our work and opportunities to take action by being a fan on **FACEBOOK** (ACLU-Utah)



Follow us on **TWITTER** (acluutah)



UCLR - continued from page 1

constitutional issues [and] the court does not believe it would be helpful to the parties for the court to rule on the present motions before it receives the additional guidance from the Supreme Court." The U.S. Supreme Court will hear arguments in *Arizona v. United States* on April 25, 2012, and a decision is expected by the end of June. The Court in *UCLR* will likely issue a decision shortly thereafter.

The HB 497 lawsuit is one of a series of lawsuits filed by the ACLU, the National Immigration Law Center and other civil rights groups across the country against Arizona copycat laws. Utah was the first state in the U.S. to pass an Arizona copycat law,

followed by Georgia, Alabama and South Carolina. All of these laws are currently enjoined fully or in part by the courts and are in different stages of appeal. The 11th Circuit Court of Appeals also postponed making a decision in the Alabama and South Carolina lawsuits until the U.S. Supreme Court's decision in *Arizona v. United States*.

More information about *UCLR v. Herbert* may be found at <http://www.acluutah.org/UCLRVHerbert.html>



the LEGACY CHALLENGE

PUT THE ACLU IN YOUR WILL. THE ACLU WILL GET CASH TODAY.

WHAT IS THE LEGACY CHALLENGE?

If you name the ACLU to receive a bequest through your will or living trust, or name the ACLU as a beneficiary of your retirement plan, savings account, or life insurance policy, our generous donor ***the LuEsther T. Mertz Charitable Trust, which has set aside \$2 million in matching funds, will make a cash donation today equal to 10% of your future gift's value, up to a maximum match of \$10,000.***

HOW DOES IT WORK?

1. Name the ACLU in your will, trust, or as beneficiary of your retirement plan, savings account, or life insurance policy.

2. Tell us about it using the Matching Form available at www.aclu.org/legacy or by calling us at (801) 521-9862 ext 100.

3. A matching cash donation today (up to \$10,000) equal to 10% of your future gift's value will be made by the LuEsther T. Mertz Charitable Trust, while funds are available.

HOW DO I MAKE A BEQUEST THROUGH MY WILL?

We suggest providing your attorney with the following language to use when drafting your will:

I give to the American Civil Liberties Union, Inc. a District of Columbia nonprofit corporation that is recognized as exempt from tax under Section 501(c)(4) of the Internal Revenue Code of 1986, as amended, with its principal offices at 125 Broad Street, New York, New York, [all (or ____ percent) of my residuary estate] or [the sum of \$____] to be used for its general purposes.

For details about tax deductibility, visit www.aclu.org/bequest.

HOW DO I NAME THE ACLU AS A BENEFICIARY OF MY RETIREMENT PLAN OR LIFE INSURANCE POLICY?

To name the ACLU as a beneficiary of your retirement plan, savings account, or life insurance policy, provide the following to your policy/account provider:

*American Civil Liberties Union, Inc.
125 Broad Street, 18th Floor
New York, NY 10004
Tax ID # 13-3871360*

WHAT IF THE ACLU IS ALREADY IN MY ESTATE PLANS?

Your gift may still be eligible for a 5% Legacy Challenge matching gift! Please use the Matching Form to inform us.

I HAVE MORE QUESTIONS. WHOM SHOULD I CONTACT?

The ACLU's Gift Planning staff can personally and expertly assist you with all the information you need:

Toll free: 877-867-1025
Email: legacy@aclu.org

You may also visit our website at www.aclu.org/legacy for estate planning checklists, gift calculators, how-to's and more information on the Legacy Challenge.

If you prefer to meet with someone face-to-face to discuss your planned giving options, please contact:

Anna Brower, Development Director
(801) 521-9862 ext 100
abrower@acluutah.org

“WILL POWER: Wealthy or Not, Your Estate Matters!”

MAY 15
5:30 - 7:00 pm

@ the ACLU of UTAH
355 N. 300 W. in SLC

Free & open to all
ACLU supporters.

Curious about planned giving and the ACLU? Join us for this casual informational session. We'll talk about the Legacy Challenge, and listen in together to "Will Power," a teleconference hosted by the ACLU's Office of Gift Planning. Complimentary snacks and drinks provided!

Please RSVP to abrower@acluutah.org or (801) 521-9862 ext 100.



ON THE HILL: 2012 LEGISLATIVE REPORT

From a civil liberties perspective, the 2012 Legislative Session can be defined both by what bills were and were not introduced. Happily, efforts to ban Sharia law, do away with equal opportunity programs and require the state of Utah to engage in immigration enforcement were absent from the session. Nevertheless, the ACLU remained busy, working actively on nearly 50 bills that impact civil liberties in our state.

REPRODUCTIVE FREEDOM

HB 363, the “no sex-ed bill,” garnered perhaps more attention than any other bill considered by the Utah legislature this year. The bill sought to curtail the teaching of sex education in Utah schools by specifically requiring Utah school districts to teach abstinence only sex education or nothing at all, and would have limited those districts retaining sex-ed lessons from any discussion of contraception, sex outside of marriage, or homosexuality. The ACLU of Utah testified against this bill, and worked heavily to amend the bill to make it less harmful. The bill passed both houses of the legislature but fortunately our action alerts generated hundreds of letters to Governor Herbert voicing concerns. He was ultimately persuaded that it was bad policy, and thus vetoed HB 363.

HB 461, Abortion Waiting Period, sought to expand the current mandatory wait time before a woman can get an abortion from 24 to 72 hours. The ACLU maintains that HB 461 substantially burdens a woman’s constitutional right to access abortion services, and wrongly assumes that women do not carefully consider the difficult decision of whether to have an abortion. By requiring women to

wait 72 hours, Utah would be tripling or quadrupling the wait time any other state has tried to impose on a woman seeking an abortion. Other than Utah, South Dakota is the only other state to pass legislation requiring women to wait 72 hours prior to obtaining an abortion. Unfortunately, the Utah bill passed both bodies and it was amended in the House to try and alleviate concerns about the burden this measure would create for women living in rural Utah. The governor signed the amended version.

SJR 23, Joint Resolution on Human Life, would have put a measure on the statewide ballot to legally define a person to include a fertilized egg and all subsequent stages of development. Similar measures have been introduced in other parts of the country. The effects of such measures would not only result in a prohibition on abortions but could have been used to block stem cell research and curtail access to in vitro fertilization and common forms of contraception, among other reproductive health services. Moreover, these types of bills could affect thousands of laws from when property rights are granted, to inheritance rights, to who can file a lawsuit. Fortunately, the sponsor of the bill was persuaded not to proceed with the bill and so it did not advance.

VOTING RIGHTS

Despite the fundamental right to either cast or refrain from casting a vote, as originally introduced, **HB 253 Voter Registration Amendments**, was an attack on an individual’s right not to vote. The bill would have specifically targeted voters who chose to exercise their right not to vote by ultimately removing them from the voter registry in violation of the federal National Voting Registration Act. The ACLU testified against this bill in committee and worked with the sponsor to amend the bill so that it no longer targeted voters for removal from the registry simply for not voting.

FOURTH AMENDMENT

SB 236, GPS Tracking Authority, was introduced in order to bring Utah law into compliance with a recent U.S. Supreme Court case, *US v. Jones*, in which the court decided that law enforcement could not track an individual’s whereabouts using a GPS tracking device absent a search warrant. SB 236 makes clear that under Utah law, GPS tracking constitutes a search that requires judicial authorization. The ACLU actively support this legislation and was pleased to see it signed into law.



Get the **FULL REPORT**

online at www.acluutah.org/2012legreport.htm



Photo by David Daniels

BY THE NUMBERS

48 Bills tracked and actively lobbied for or against

5 Number of bills we affirmatively supported and worked towards passage, 3 of which passed and were signed by governor

10 Anti-civil liberties bills stopped or neutralized

20+ Committee hearings attended

7 Bills testified in support of or against

1 Citizen Lobbyist Training

Thanks to the University of Utah S. J. Quinney College of Law Public Policy Practicum and Professor Emily Chiang for their assistance during the legislative session. Students in the Practicum include: Kennedy Nate, Andreo Micic, Garreth Long, Neil Webster, Mark Schwarz, Levi Cazier, Micah Scholes, Aria Nejad, Frank Chiaramonte, Tyler Lindsey, and Dara Cohen

HB 140, Vehicle Checkpoint

Amendments, sought to revoke statutory authority for DUI checkpoints in Utah. These checkpoints are more expensive and less effective in apprehending DUI drivers than comparably staffed alternative methods of policing. While it is possible to operate checkpoints in a constitutionally sound manner, Utah checkpoints often operate as multi-purpose searches, which expressly violate Utah's constitutional protections from unreasonable search and seizure. The ACLU supported this bill because of the 4th Amendment concerns involved in suspicionless searches, and worked closely with the sponsor to advance the bill; however it ultimately did not pass both legislative bodies.

HB 155, Drug Screening for Temporary Assistance for Needy Families Recipients

, authorizes drug testing of persons applying for Temporary Assistance for Needy Families ("TANF"). HB 155 incorrectly presumes that persons with children who receive TANF support are more likely to use drugs than the general population. Other states, such as Florida, have passed similar bills, only to have them halted by court injunctions as likely unconstitutional.

HB 155 represents a more palatable approach through the administration of written screening prior to testing. The bill also provides funds for drug treatment for those who test positive. HB 155 passed and was signed into law.

FIRST AMENDMENT

HB 194, Involuntary Feeding and

Hydration of Inmates, was introduced as a response to address the disturbing case where a mentally ill 19-year-old inmate starved to death in his jail cell. Unfortunately, the resulting legislation does not provide for greater mental health treatment, but rather established a process for jails and prisons to follow to determine whether or not they can intervene to force feed an inmate. As originally drafted, the bill allowed jail or prison officials to force feed an inmate on an emergency basis for 3 days at a time and for longer periods subject to a court order. An amended version passed, allowing only for force-feeding pursuant to court order. The ACLU remains concerned that force-feeding inmates violates numerous constitutional rights, including the 1st Amendment right to protest and the right to be free from degrading or inhumane treatment.

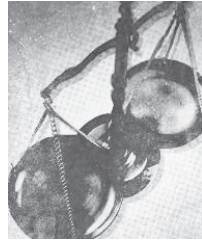
Always On The Look-Out For Civil Liberties Violations

In the past 12 months, the ACLU of Utah has fielded over 1,000 complaints. Some of the more prevalent areas of concern include the following:

Conditions in Utah's jails and prisons. Some inmates have described poor living conditions, such as overcrowding and some also state that they have been denied access to adequate health care including lack of treatment of serious medical issues.

Jail and prison policies that potentially infringe on free speech rights. These policies include mandating that prison visits occur in English only and some jails requiring non-legal mail be written on postcards.

The quality of legal representation that Utah counties are providing to indigent defendants. These



concerns are present at each stage of the criminal case, from the investigation and plea bargaining stage, to the trial, to the appeal, and to habeas corpus challenges.

Instances of alleged misconduct by law enforcement officers. Complaints in this area include excessive uses of force, instances of potential racial profiling, and other abuses of power.

Instances of potential civil rights violations in Utah's elementary and high schools. Students and their parents have complained of improper limits on free speech, invasions of privacy, and potential discrimination against minority and LGBT students.

Concerns about the constitutionality of Utah's referendum and ballot initiative policies and procedures.

We have an Intake Assistant and a volunteer attorney dedicated to the initial screening process, which involves summarizing the complaints and identifying situations where the ACLU of Utah may be able to become involved in some way. The complaint is then given a final screen by the legal director or other staff attorney. Because of our limited resources, we are unable to assist with every qualified complaint, but we diligently respond to all constitutional complaints that affect a larger group of people. We also track all complaints in a database to identify systemic issues we may be able to address.

To find out more about our intake process or to file a complaint please visit our website at www.acluutah.org/help.shtml

ACLU of Utah Welcomes New Legal Director



On February 21, the ACLU of Utah announced the hiring of John Mejia as the new Legal Director. He replaced Joe Cohn who had been serving as Interim Legal Director since September 2011.

John grew up in Salt Lake City and attended Brown University, where he majored in English and American Literature. John then attended the University of Chicago Law School, where he graduated with honors in 2003. In law school, he was honored with the Tony Patiño Fellowship, a merit based scholarship awarded to

law students based on demonstrated leadership, public service and achievement. After law school John worked for the firm of Sidley Austin LLP in Chicago, Illinois, where he was also actively involved in serving the community, including teaching constitutional law to elementary school children and coaching high school mock trial teams. In 2008, John returned to Salt Lake to serve in the federal courts as a law clerk.

John has found his first two months on the job both challenging and exhilarating. "Every day brings a new issue to wrestle with. I have not yet had a dull moment," John commented. "Meeting our members, friends, and supporters has also been a wonderful experience. Knowing I have their support makes my job easier and is an inspiration to me in all my efforts."



This spring the ACLU is kicking off a nationwide initiative called Estamos Unidos ("We Are United,") to engage Spanish-speakers in the work of the ACLU. The centerpiece of the effort is the website **www.MiACLU.org**.

Throughout the campaign, we'll be gathering signatures for a petition against anti-immigrant laws, collecting stories about the harm of anti-immigrant laws, inspiring people to organize to defend their rights, and signing people up to receive MiACLU email and text messages in English and Spanish.

More details coming soon!

The ACLU of Utah

The ACLU of Utah, chartered in 1958, operates to ensure the constitutional rights and freedoms of everyone living in or visiting Utah. For more about the ACLU of Utah and our priorities please visit acluutah.org/about.shtml

Staff

Karen McCreary, Executive Director
Anna Brower, Development Director
Marina Baginsky Lowe,
Legislative and Policy Counsel
John Mejia, Legal Director
Esperanza Granados,
Public Policy Advocate
Leah Farrell, Staff Attorney
Reinard Knutsen, Office Manager
Lori Nixon, Executive Assistant
Anikka Hoidal, Intake Assistant

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Iqbal Hossain, Alexander McDonald,
Tarek Nosseir, Leonor Perretta,
Cathleen Power, Catherine Putnam-
Netto, David Reymann, Andrew
Riggle, Jill Sheinberg, Clifton
Uckerman, John Witmer, Robert Wood

Legal Panel

Jensie Anderson, John Bogart,
Stephen Clark, Lincoln Hobbs, Laura
Kessler, Clemens Landau, Tom
Mitchell, Kent Morgan, Tyson Snow,
Karen Stam, Aaron Tarin,
Mary Woodhead

Interns and Volunteers

Karen Beltcher, Lauren Burns,
Julia Goldman, Shukri Harbi,
Yoon Hee Hong, Nicky Kelly, Amanda
Nelson, Samantha Suarez,
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Release of Chemicals At State Prison Prompts Investigation



The ACLU of Utah is investigating complaints stemming from an incident where a chemical agent was released in the Olympus branch of the Utah State Prison. Around 150 prisoners were exposed to a teargas-like substance that filled their cells through the air vents. In letters to the ACLU and in personal interviews, the inmates describe smelling something burning, comparing it to an electrical fire, and then feeling intense burning in their eyes, nose, throat, and chest.

"The inmates report that they repeatedly pressed the emergency button in their cells, but got no response. Many told us they were overcome with the feeling that they were going to die," says Leah Farrell, Staff Attorney at the ACLU of Utah.

The inmates state that they spent about 20 minutes locked in their cells exposed to the gas before prison personnel let them out. They

said that inmates in two of the cell blocks in the Olympus facility, about 60 people, were never evacuated. The exposed inmates were especially vulnerable because the Olympus facility houses those who suffer from mental illness, such as anxiety disorder and schizophrenia, as well as inmates who need kidney dialysis. Eighteen inmates contacted the ACLU of Utah, frustrated that all their attempts to address the physical and mental health effects of the exposure have been minimized or ignored.

The Attorney General's office, along with prison authorities, has confirmed that an incident occurred. According to a response from the prison to an internal complaint by an inmate, the chemical agent was deployed in the Olympus wing of the Utah State Prison when a single inmate refused to return to his cell from the yard adjacent to the cells. The chemical agent was drawn into the air system entering the cells. No explanation has been given for why it was necessary to use the chemical agent in these circumstances or what safeguards are in place to assure that a similar event does not occur again. The response of the prison during and after this disturbing incident, the prison's protocol for using chemical agents, and the prison's accountability and complaints procedure in this case are all deeply concerning. The ACLU of Utah will continue its investigation of this potential civil rights violation.

More information about the ACLU of Utah's work in the Prison and Jails can be found at www.acluutah.org/prisonandjails.shtml



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Salt Lake City, UT 84103

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Utah High School Seniors Honored For Justice & Equality Activism

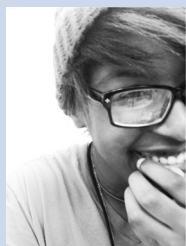
The ACLU of Utah is proud to announce the amazing winners of its 2012 Youth Activist Scholarship Awards. A selection committee composed of community leaders and volunteers reviewed qualifying candidates from across the state. Our winners were selected based on the students' dedication to civil liberties, the challenges they have overcome, the leadership they display, and their academic excellence. Each winner receives \$1,000 towards their first year of college and will be honored at the 2012 Bill of Rights Celebration on May 2. More information about the Youth Activist Scholarship program can be found at www.acluutah.org/scholarship.html



Patricio Panuncio

**Academy for Math,
Engineering and
Science, Salt Lake City**
Patricio is a fiery
and passionate
promoter of civil

liberties through his hard work in promoting racial equality. Doing everything from testifying before the Utah State Legislature, to appearing on a radio show to tell his story, Patricio has been relentless in his efforts to increase awareness of the issues faced by the immigrant community.



Gabriel Glissmeyer

**Hillcrest High School,
Midvale**
Gabriel has long
been committed
to promoting
social justice and

equality. Gabe is a part of the LGBTQ community and has worked to educate the public about the unjust targeting of the LGBTQ community by tobacco companies. Gabe also started "Advocates for Equality", an inclusive club that has advocated for policies to promote equal treatment of students in public schools.



Lincoln Parkin

**Weber High School,
Pleasant View**
Lincoln has
worked with
several different
organizations in

order to promote leadership, equality and service. Through his connection to the Ogden OUTreach Center, Lincoln helped with the "Pink Dot" campaign to create a supportive community for LGBTQ issues and is president of the Gay Straight Alliance club at Weber High School.

The ACLU of Utah's Youth Activist Scholarship Program is generously funded by the Semnani Family Foundation.