



Deferred Action Workshops Provide Guidance to Immigrant Youth

On June 15, 2012 the Obama administration announced, through executive authority, a program that temporarily spares undocumented immigrant youth educated in America's schools from deportation. Successful applicants are granted "deferred action" for two years (subject to renewal). Those eligible include people who arrived in the U.S. before age 16, are younger than 31, have been in the U.S. for at least five continuous years, graduated from a U.S. high school or earned a GED or served in the U.S. armed forces, and "have not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise pose a threat to national security or public safety." The announcement was made on the 30th anniversary of the landmark U.S. Supreme Court decision, *Plyer v. Doe*, in which the high court made clear that all children, regardless of their immigration status, must be welcomed in the nation's public K-12 schools.

"[T]he administration has provided these young adults the opportunity to pursue the American Dream," said Laura W. Murphy, director of the ACLU Washington Legislative Office. "[They] have lived with the constant nightmare that they will be deported from the only home they've ever



ACLU of Utah Public Policy Advocate, Esperanza Granados, leads a recent workshop at Southern Utah University in Cedar City.

known...that nightmare has come to an end, at least temporarily." While deferred action provides a stopgap measure, it does not provide a permanent solution to the uncertainties experienced by the roughly 1.8 million undocumented youth in the U.S.

The ACLU of Utah has been working with community organizations in a series of statewide workshops known as the "AILA Utah Chapter: Deferred Action Workshops." Since mid-August there have been 14 events hosted throughout the

Salt Lake area, Cedar City, Logan, Ogden, Park City, and Provo, with more events scheduled through the end of the year. Attendance at the events has surpassed expectations, with nearly 2,000 attendees so far. The Immigration Policy Center estimates that there are 16,744 potential beneficiaries of deferred action in Utah as of October 2012.

More information about these workshops can be found at www.acluutah.org/Deferred_Action_Workshops.html

LET ME VOTE



The ACLU does not endorse or oppose any candidate or party and we believe that no civil right is more important in our democracy than the right to vote.

Every vote counts. Your right to vote is one of the most basic rights you have as an American.

In order to participate in our democracy and have your voice heard, all voters need to understand the rules, register on time and show up at the correct polling place.

Read the ACLU of Utah's 2012 Voter Empowerment Guide!
www.acluutah.org/VoterEmpowerment.html

Feel free to download, print, and share it with your family and friends.

If you think your right to vote has been denied, call the national ACLU Voter Protection Hotline at 877-523-2792.

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The Director's Chair



Karen McCreary, ACLU of Utah Executive Director

Election season is at turns invigorating and maddening. I am heartened by all those who work with our elected officials and fellow citizens to tackle the difficult issues facing our country. And I am also deeply troubled by the powerful moneyed forces at play in the election, the lack of real discussion about so many critical issues (civil liberties, environmental etc.), the profound disparities of income and opportunity in our country, and the crippling of our political systems by extremists.

However, I remain grounded in hope. It is wonderfully energizing to be a part of the ACLU. In every state across the country, the ACLU works doggedly and persistently to bring about changes essential to building a just and lasting democracy. I am also fortunate to know so many of you: individuals who embody an orientation towards life that is profoundly “hopeful.” Vaclav Havel, the Czech playwright and politician, spoke of this quality of hope, the kind of hope he came to understand through his long years as a dissident and human rights activist. Hope, in a deep and powerful sense is not the same thing as optimism, but the certainty that something makes sense, regardless of how it may turn out immediately, because it is good. And through time and persistence, a better and more just society emerges.

I read recently that Thurgood Marshall, our first African-American Supreme Court justice used to say, “Just think of it: Those slave owners and slave traders said they were building a democracy. They didn’t know anything about building a democracy. What do slave owners and slave traders know about building a democracy?” Justice Marshall went on to say, “What that means is that every generation since then has got to do the job that they couldn’t do, that they weren’t qualified to do. We have to build that democracy that does not yet exist.”

The ACLU plays a critical role in the on-going building of a more inclusive, equal and just democracy. Nationally, we have worked on 33 cases in 22 states to challenge recent voter suppression laws. The ACLU brings more cases and advocacy initiatives in support of LGBTQ equality than any other group - including that of our courageous plaintiff Edie Windsor. Her challenge to the Defense of Marriage Act (DOMA) resulted in the very recent decision by the Second Circuit Court of Appeals that DOMA violates the Constitution – and that “heightened scrutiny” applies when the government discriminates against lesbians and gay men. The ACLU brought legal challenges in six states including our own to challenge Arizona-style anti-immigrant laws that violate the Constitution and result in racial profiling.

In this newsletter, you’ll read about the exciting and hopeful work of the ACLU of Utah to protect and enhance our free speech rights, to work against racial disparities and injustice, and to encourage and celebrate youth civic engagement. Please check our website and Facebook page frequently to keep abreast of the work we are doing in the legislative, public education and litigation arenas. You make it all possible; we are grateful for your financial support and encouragement. We are all in this together. That’s a good, hopeful and powerful thing!

The ACLU of Utah

The ACLU of Utah, chartered in 1958, operates through public education, legal advocacy, litigation, and lobbying at both the state and local levels to ensure the constitutional rights and freedoms of everyone living in or visiting Utah. Our work is based on those principals outlined in the Bill of Rights and our priorities include: Participatory Democracy; Racial Justice; Immigrants’ Rights; Religious Liberty & Freedom of Belief; and Privacy & Technology. In addition, we continue our commitment to reform the Utah criminal justice system, protect the First Amendment, reproductive freedoms, and equality for all.

For more about the ACLU of Utah and our priorities please visit www.acluutah.org

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Get Involved!



Sign up for
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Keep up-to-date with our work and
opportunities to take action by being
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Want to find out about
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In Memoriam: **DAVID BERT HAVAS 1941 - 2012**

Dedicated Civil Rights Attorney & Committed Friend of the ACLU



Above >> Ogden attorney and ACLU supporter David Bert Havas.

At right >> Bert and Sandy Havas listen to an ACLU of Utah update at a 2010 reception, They helped plan and publicize the event, at the Eccles Community Art Center in Ogden.

On September 1, the ACLU of Utah lost a friend and fierce ally of civil liberties, Mr. David Bert Havas of Ogden. Bert was known - and loved - by many in his community, as well as by colleagues and friends far beyond Weber County.

Fellow ACLU members may already have known Bert as a long-time civil rights attorney who cared deeply about obtaining justice for society's most vulnerable individuals. Bert was a modest and quiet man and most may not have known that he was also a decorated war

veteran who served with distinction and honor in Vietnam. He was also a Holocaust survivor who endured life in a concentration camp with his family when he was just a few years old.

Bert and his wife of 40 years, Sandy, have been wonderful supporters of the ACLU of Utah for years. Our organization was humbled to be included in Bert's fine legacy. Many of his friends, loved ones and appreciative admirers gave generous donations to the ACLU in Bert's memory. Many thanks to those who gave to the ACLU in celebration of Bert's life.



“(H)e dedicated his professional life to helping those in need of a champion to represent their interests. Bert was fiercely devoted to the concepts of freedom, liberty, justice and equality.”

- Tribute to Bert David Havas
in Ogden Standard-Examiner



YOUTH ACTIVIST SCHOLARSHIP

This is the sixth year that the ACLU of Utah is offering three **\$1,000** scholarships to high school seniors who have taken a stand to protect civil liberties!

If you have, or know of a student who has, stood up for:

**EQUALITY - RACIAL JUSTICE
FREE SPEECH - RELIGIOUS FREEDOM
TOLERANCE - PRIVACY**

We want to hear from you!

Look for more details and download an application form on our website
www.acluutah.org/scholarship.htm
or call 801-521-9862 ext 111

**Deadline for applications is
Monday, January 7, 2013**

SUCCESS *through* **BEQUESTS**

Mr. Austin Levy
WARHAFTIG

Mr. Alexander
BODI

Mr. Alan C.
TULL

We owe a debt of gratitude for these ACLU members who, years ago, had the foresight, commitment and generosity to include the ACLU in their estate plans and whose bequests now benefit us.

The entire ACLU, especially a small affiliate like ours, has benefitted from many thoughtful bequests in recent years. This has allowed our organization to stay relatively strong and stable throughout the deep recession. At left, we recognize a few past members whose generosity through planned giving, coming to fruition in the past several years, has been invaluable to the ACLU of Utah.

Now our current members are stepping up as well to add the ACLU to their estate plans - a positive sign for civil liberties protection and progress in the years ahead! Many of these members are taking advantage of the **LEGACY CHALLENGE**, which provides matching cash gifts for planned gifts made between now and April 2013. If you are interested in making your own gift, visit www.aclu.org/legacy.

ON THE HILL

Interim Update from the Legislature, or How Your Legislators Spent Their Summer Vacation

Privacy and Technology

During the May interim session at the state legislature, representatives from the federal Drug Enforcement Agency (DEA) testified before the Law Enforcement Interim Committee, requesting permission to install fixed devices along the 1-15 corridor for the purpose of recording all license plate numbers. Data would be stored in a facility in Virginia for two years. Fortunately, members of the committee were concerned about the privacy implications involved with recording the movement of Utahns, regardless of whether any criminal behavior was afoot, and refrained from granting the DEA's request. Nevertheless, during the hearing, it became apparent that law enforcement agencies in Utah are already making use of mobile automated license plate reader (ALPR) devices in various parts of the state. The ACLU of Utah sent GRAMA requests to these agencies to understand how the ALPR devices are being used, where data is stored, for how long, and who can access data. Based on the information we received, we hope to see legislation introduced at the state level, putting in place guidelines for how this new ALPR technology is used.

More information about ALPRs can be found at www.acluutah.org/ALPR.html

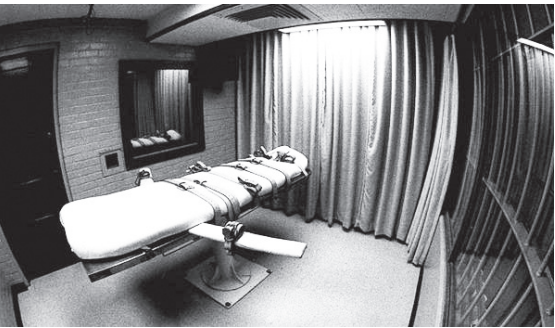


ALPR software display

Death Penalty

The death penalty and its attendant costs were also the subject of debate during the summer interim sessions. Rep. Handy of Layton introduced the topic and requested that the Law Enforcement Interim Committee officially study the fiscal costs associated with the death penalty's use in Utah. An initial hearing demonstrated that there are different costs and procedures used in Utah when a death sentence is a possible sentencing option. The Law Enforcement committee intends to continue studying the topic, including looking at non-fiscal costs as well, such as moral and religious consequences. Stay tuned for more updates on this topic!

More information about the death penalty may be found at www.acluutah.org/deathpenalty.shtml



Execution chamber at the Utah State Prison

Reproductive Freedom

Rumor has it that Senator Margaret Dayton spent the summer working on a bill to ban abortions based on the race or gender of the fetus. Unfortunately, Utah would not be the first state to propose such a law; in 2008 U.S. Representative Trent Franks (R-AZ) introduced a federal bill, the "Susan B. Anthony and Frederick Douglass Prenatal Discrimination Act," prohibiting sex selective and race selective abortions. Since then,



Anti-choice organizations have paid to erect billboards like this in multiple cities

four states have enacted similar laws: Illinois, Oklahoma, Arizona and Pennsylvania. In all cases, this type of legislation undermines an individual woman's right to make a personal and private reproductive health care decision. Race selection, in particular, is a concept that appears to have been wholly invented by anti-choice forces seeking to cloak abortion bans in rhetoric about racial justice. The unfortunate effect of these bills is to penalize providers of reproductive health care, and restrict women's access to abortion services, with a particular impact on women of color. Stopping this type of harmful legislation will be a top priority for the ACLU of Utah.

More on our legislative work can be found at www.acluutah.org/legislation.shtml

AARP Utah 2012 Andrus Award Recipient:

Herta Teitelbaum, ACLU Volunteer



On October 9, long-time ACLU of Utah volunteer Herta Teitelbaum received the 2012 Andrus Award for her years of invaluable service. The award, named for AARP founder Dr. Ethel Percy Andrus, honors retired individuals who distinguish themselves by serving others, remaining actively engaged in their communities, and setting an inspiring example of how older Americans can contribute much to civic life.

Herta began volunteering at the ACLU of Utah more than five years ago. She now coordinates our annual Youth Activist Scholarship program, assists with ACLU member education and communication, and provides hands-on help at events.

Right >> AARP Utah State President Pat Gamble-Hovey (left) congratulates Herta Teitelbaum (right) on her Andrus Award; Development Director Anna Brower (center), who introduced Herta as an inspiration and invaluable team member, nominated her for the award.

IN THE COURTS

Challenge To Utah's “Show Me Your Papers” Law Still In Court



ACLU of Utah attorneys, plaintiffs in the UCLR v. Herbert case, and advocates in the community hold a press conference on the day the Supreme Court issued a decision in the Arizona case.

It's been a year and a half since federal court Judge Clark Waddoups granted a temporary restraining order, which kept Utah's HB 497 from temporarily taking effect. The law is still on hold. A follow-up hearing has been scheduled for February 2013, in which attorneys will address two issues that have not yet been argued in Court: the impact in Utah of the Supreme Court decision in Arizona's "show me your papers" law and the unconstitutionality of section 5 of HB 497.

A hearing for a preliminary injunction took place in February 2012 to block HB 497 permanently. Judge Waddoups postponed his decision pending a Supreme Court decision in the Arizona v. U.S. case. The Supreme Court case deals with Arizona's controversial law SB 1070, on which Utah's HB 497 was modeled.

In light of the Supreme Court decision in the Arizona case, the ACLU of Utah and partners filed a motion to also enjoin section 5 of HB 497. Section 5 authorizes state officers to transport unlawfully present immigrants who they detain, even if only during a traffic stop, to federal detention facilities at their unilateral discretion. This violates federal immigration law and raises constitutional concerns. As the Supreme Court made

clear in the Arizona decision, state anti-immigrant laws violate the Constitution if they cause prolonged and unnecessary detention. The Supreme Court's decision makes clear that section 5 of HB 497 violates these fundamental principles and plaintiffs have consequently filed a motion to block it from taking effect.

Section 5 is one of several provisions in HB 497 that are being challenged. During the hearing early this year, attorneys argued that sections 3, 4, 6, 10 and 11 are unconstitutional because they are preempted by federal law and violate the constitutional rights of individuals. The Supreme Court held similar provisions in the Arizona case unconstitutional. Although certain sections of the law are challenged individually as unconstitutional, HB 497 is also challenged in its entirety.

The next hearing in which Judge Waddoups will hear oral arguments from attorneys for the plaintiffs and attorneys for the State has been scheduled for Friday, February 15, 2013 – almost two years after Governor Gary Herbert signed HB 497 into law.

More information on this case can be found at www.acluutah.org/UCLRvHerbert.html

SAY
NO
TO
HB497

Ogden's “Gang Injunction” Appealed To Utah Supreme Court And Immediate Stay Requested

On August 20, 2012, the Utah state district court in Ogden issued a permanent injunction against the “Ogden Treces” gang. The injunction prohibits more than three hundred alleged gang members from a wide range of constitutionally protected conduct, such as associating with other alleged members (including family, friends, and co-workers), engaging in peaceful protests in public places, traveling together to vote, and even appearing in court together to challenge the injunction. These restrictions are in place throughout the entire city of Ogden. The ACLU of Utah, together with cooperating attorneys David Reymann of Parr Brown Gee & Loveless and Randy Richards of Allen, Richards & Pace, have appealed this injunction to the Utah Supreme Court. Among other things, the ACLU of Utah argues that the injunction is invalid because it was not properly served and because Ogden police have unfettered discretion in identifying alleged gang members who can be subjected to the injunction. The ACLU of Utah also requested that the district court suspend the enforcement of the injunction while the appeal is pending, a request which the district court denied. That decision will be appealed before the Utah Supreme Court.

Find more about this case at www.acluutah.org/Weber_v_Trece.html

The Freedom To Flip The Bird

Recently, the ACLU of Utah proposed to settle a freedom of expression case in Orem City. On June 25, 2010, Seth Dame “flipped the bird” at an Orem City police officer who was driving by. In response, the officer stopped the car Seth was riding in and questioned Seth and the others in his car for about 20 minutes. Ultimately, the officer issued a disorderly conduct citation against Seth for “flipping the bird” at him. Orem City later declined to prosecute the citation. Seth called the ACLU of Utah, who contacted Orem City to assert that the officer had violated Seth's rights under the

First and Fourth Amendments. The ACLU of Utah also conducted an investigation into the Orem Police Department's practices in issuing disorderly conduct citations. In a proposed settlement, Orem City will agree that Seth should not have been detained or cited for “flipping the bird” at the officer and that no one else should, in the future, be detained or cited by Orem police based solely on an offensive gesture. The ACLU of Utah will obtain \$2,500 in damages for Seth and \$2,500 in attorneys' fees for their work on Seth's behalf. Finally, Orem police will continue to implement First



Amendment protection education in their annual training, the content of which will be determined by Orem City and may be reviewed by the ACLU of Utah.

IN THE COURTS

VICTORY! Brigham City Repeals Unconstitutional “Free Speech Zone” Ordinance

On September 11, 2012, the ACLU of Utah filed a complaint on behalf of the Main Street Church of Brigham City challenging Brigham City’s “Free Speech Zone” ordinance. Under this ordinance, Brigham City required Main Street Church to apply for a permit to distribute leaflets on the public sidewalks around the LDS Temple in the city, which was holding an open house. The permit barred Main Street Church members from passing out leaflets on the two most trafficked

sidewalks and limited the number of people passing out leaflets to four. For several weeks, city officials enforced these restrictions against Main Street Church. In the lawsuit, the ACLU of Utah on behalf of Main Street Church alleged that on its face and as applied here, the ordinance violated the Utah and United States Constitutions because it required a permit for all conceivable forms of public expression and imposed civil and criminal penalties for failing to comply.

The process of granting “Free Speech Zone” permits was controlled by the city’s police chief, attorney, and administrator, who had absolute discretion of how, when, and why to establish such zones. Main Street Church also moved for a temporary restraining order to immediately allow its members to leaflet on all sidewalks. Soon after the suit was filed, Brigham City agreed not to enforce the ordinance, allowing Main Street Church to peacefully hand out their literature on each public sidewalk surrounding the LDS Temple. In the midst of the ongoing lawsuit, on September 27, 2012 Brigham City repealed the “Free Speech Zone” Ordinance, removing this unconstitutional ordinance from their books.

More on this case can be found at www.acluutah.org/MS_C_v_BrighamCity.htmlMSC_v_BrighamCity.html



Pastor Catlin of the Main Street Church of Brigham City talks with Mormon Missionaries in front of the LDS Temple after the city agreed not to enforce the ordinance



Ban on Electronic Signatures Appealed

On July 20, 2012, the ACLU of Utah, along with cooperating attorneys David C. Reymann and Chad R. Derum, filed an amicus curiae brief to the Utah Supreme Court on behalf of Utahns for Ethical Government (UEG) an organization that worked to place an initiative on the ballot of this year’s general election. As part of those efforts, various disputes arose between UEG and election officials, and UEG brought suit in Utah state district court to resolve them. As part of that suit, UEG asked the district court to rule that any electronic signatures UEG collected in support of placing the initiative on the ballot must be counted. On June 6, 2012, the district court denied UEG’s motion, appearing to reason that electronic signatures could never comply with Utah’s statutory requirements for gathering, submitting, processing, and counting signatures for initiative petitions. In its amicus brief, the ACLU of Utah argued that a



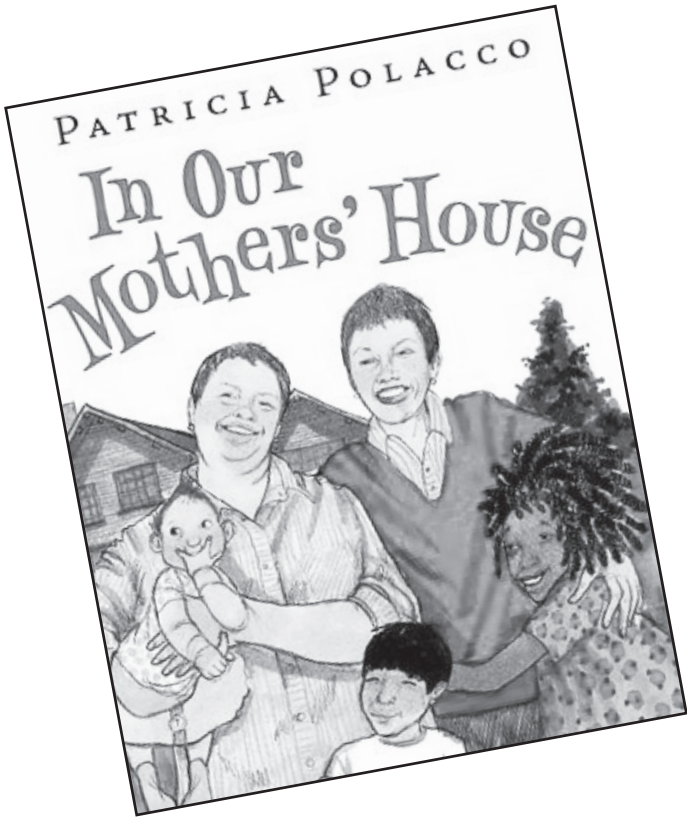
Kim Burningham of UEG announces the petition for ethics reform drive

ban on counting electronic signatures in the initiative process violates the Utah Constitution. The Court has ruled against allowing the UEG initiative on the ballot, but has not yet issued a detailed

opinion explaining its reasoning for this decision.

Find more on this case at www.acluutah.org/UEG_v_Clerks.html

Davis School District Restricts Access To Library Book, Raising Constitutional Concerns



In Spring 2012, the Davis School District decided to remove the book “In Our Mothers’ House” from the shelves of school libraries and require parental permission to check it out. “In Our Mothers’ House” tells the story of a family headed by a same-sex couple with three adoptive children. The book has been found by independent book-

rating associations to be age appropriate for elementary school children. Upon learning of this incident, the ACLU of Utah began an investigation and reached out to the school district administration to start a dialogue.

In a letter to the school district, the ACLU of Utah brought attention to and noted that this situation is factually similar to cases in which courts have ruled that the First Amendment prevents schools from limiting student access to library materials containing portrayals of LGBT people. The letter further casted doubt on whether the removal of the book is justified by Utah statute. “Federal courts have consistently concluded that the First Amendment protects student access to books in their school libraries, free from limits based on the administration’s disagreement with the viewpoints expressed in the books,” wrote John Mejia, Legal Director of the ACLU of Utah. “...we have serious concerns that the district have fallen short of these protections.” The ACLU of Utah also had a conference with district officials to reiterate these concerns. After its investigation, the ACLU of Utah concluded that the restrictions placed on the book were the result of viewpoint discrimination. Such discrimination violates the First Amendment rights of

students to freely access information in their school libraries. We would like to speak to parents with children at schools where the book was removed, which include Parkside Elementary School in Clinton, Windridge Elementary School in Kaysville, Snow Horse Elementary School in Kaysville or South Weber Elementary School in South Weber. Please contact us at (801) 521-9862 ext. 108 or email aclu@acluutah.org

More about this issue can be found at www.acluutah.org/DavisBookBan.html



Download our 2011 - 2012 Annual Report
www.acluutah.org/Annual_Report_FY12.pdf

VICTORY! Rally Proceeds Due To ACLU Advocacy

In September, the ACLU of Utah assisted Anna Van Wagoner in exercising her constitutionally guaranteed rights to free speech and assembly. Anna contacted the ACLU after she was told by Salt Lake County that she needed a permit to gather a group of people on the sidewalk adjacent to St. Mark’s Hospital. Further, she was told that she would need to pay a \$50 processing fee and purchase a \$1,000,000 liability insurance policy. Anna’s organization, Improving Birth Utah, advocates for access and education regarding a variety of birthing resources, including access to midwives and a diminished use of unnecessary cesareans and induced births. The rally Anna was helping to plan was held on Labor Day as part of a coordinated national effort to bring these issues to light.

Anna reached out to the ACLU Legal Director, John Mejia, who advocated on her behalf by contacting the county attorneys. The county decided that an existing policy applied that waives the processing fee and does not require the permit holder to purchase liability insurance for free speech events. Because of the work of the ACLU of Utah, Anna and her group proceeded with her free speech event on the public sidewalk of Salt Lake County. We hope that in the future, Salt Lake County won’t subject other similar permit applicants to these unnecessarily burdensome and unconstitutional requirements.

www.acluutah.org



Participants of the Improving Birth Rally gather outside of St. Marks Hospital in Salt Lake City.

Other examples of ACLU of Utah legal advocacy can be found at www.acluutah.org/legaladvocacy.htm



355 North 300 West
Salt Lake City, UT 84103

A Civil Liberties Hero: Brian Barnard 1945 - 2012

Brian Barnard’s death, on September 4, 2012, was a huge loss to the civil liberties community. Brian had a deep passion for individual rights, and an unwavering commitment to the protection of the people on the fringes of society whose rights were most frequently under attack.

Brian worked with the ACLU since the mid-1970s as a cooperating attorney on all manner of groundbreaking civil liberties cases. One of his very first

Free Speech cases with the ACLU of Utah came in 1975, when he defended a theater owner who showed the film “Deep Throat,” and in so doing attacked a vague and overly broad obscenity ordinance that stifled free expression. Brian also worked on ACLU cases related to law enforcement excessive force, jail and prison overcrowding, mistreatment of prisoners and lack of mental health facilities, school-sanctioned prayer, the rights of protestors and demonstrators,

political signs and speech in Utah communities, and more.

In “Friendly Fire: The ACLU in Utah,” local author Linda Sillitoe quotes Brian as saying, “I enjoy this kind of practice. If there aren’t attorneys around to do something about it, the Bill of Rights doesn’t mean anything.”

We will miss him greatly.

