



ACLU of Utah Reporter

January 2010

Newsletter of the American Civil Liberties Union of Utah

National ACLU Board President Susan Herman to Visit Utah

Susan Herman, the new National Board President of the ACLU, will be in Utah at the end of January. This will be a rare opportunity for ACLU of Utah members, supporters and friends to meet the board's new leader, who was elected in October 2008. She replaced Nadine Strossen, who served in the post for nearly two decades.

Ms. Herman holds a chair as Centennial Professor of Law at the Brooklyn School of Law. Professor Herman has participated in Supreme Court litigation, writing and collaborating on amicus curiae briefs for the ACLU on a range of constitutional criminal procedure issues. She has appeared on NPR, PBS, NBC, CSPAN and MSNBC, and has written articles for the *New York Times* and *Newsday*.

Ms. Herman takes the helm of the ACLU board at a very pivotal moment in the organization's history. This year, as the ACLU celebrates its 90th anniversary, the organization also faces a critical budget shortfall of \$20 million - at a time when the ACLU's work on national security, racial justice, LGBT and other issues is more critical than ever.

During Ms. Herman's visit to Utah, ACLU supporters will have an excellent opportunity to hear her insights into the state of the ACLU, as well as to witness her expertise on several timely issues and areas of the law.

STATE OF THE UNION LUNCHEON

A crushing recession, an increasingly conservative Supreme Court, the Obama Presidency...how will these realities impact the ACLU in 2010 and beyond? Members will have a chance to pose this and other questions to Ms. Herman at the ACLU of Utah's "State of the Union" Luncheon on Friday, January 29 (see side bar for more information).

Admission for this event - proceeds of which benefit the work of the ACLU of Utah - is just \$50 per person and includes a delicious Market Street Grill lunch. A table for six people is only \$300.

Attendees can even show up early for a chance to meet Susan Herman. The intimate setting will ensure an open and interactive dialogue between Ms. Herman and our local ACLU stalwarts.

Tickets can be easily purchased online at www.acluutah.org, or over the phone by contacting Anna Brower at (801) 521-9862 x.100.

PARK CITY RECEPTION

Friday evening, January 29, a reception in Ms. Herman's honor will be held at the Tesch Law Offices in Park City, Utah. The event, which will take place from 5:00 p.m. to 7:00 p.m. is cosponsored by the Tesch Law Offices and the Park City Bar Association. RSVP's are required. Contact Anna Brower at abrower@acluutah.org or (801) 521-9862 x100 in order to attend.

ANNUAL FORDHAM DEBATE

On Monday, February 1, Ms. Herman will be taking part in the University of Utah S.J. Quinney College of Law's Annual Jefferson B. Fordham Debate. Ms. Herman will debate S.J. Quinney Law Professor Amos Guiora, on the topic of: "**Constitutional Rights and National Security: Do We Have to Compromise?**"

This event, which is free and open to the public, will take place from 12:15 p.m. to 1:30 p.m. in the Moot Court Room at the S.J. Quinney College of Law (332 S. 1400 E. in Salt Lake City). *CLE credit is pending.*

For more information on these events, please contact Anna Brower at abrower@acluutah.org or (801) 521-9862 x100.



Photo: Alex Silver / The Cornell Daily Sun



FRIDAY JANUARY 29
12:00 - 1:30 P.M.

@ Market Street Grill Cottonwood
2985 E. Cottonwood Parkway (approx. 6580 S.)

\$50 PER PERSON
\$300 FOR A TABLE FOR SIX PEOPLE

12:00 - Check-in and meet Susan
12:30 - Lunch served
12:45 - Remarks from Susan Herman,
with time for Q&A

Proceeds benefit the work of the ACLU of Utah. Your ticket can be purchased online at www.acluutah.org/StateOfUnion2010.htm or by calling Anna Brower at (801) 521-9862 x100.

The Director's Chair



Karen McCreary
Executive Director

The near-bomb incident on Christmas day has again brought into focus the debate about whether Americans can be both “safe and free.” Demands

for increased use of whole-body scanners at airports have been made by President Obama and many others. At the same time, the Obama administration has enacted national profiling, requiring all travelers from 14 identified countries to face additional screening and full-body pat-downs. Both of these responses are of questionable effectiveness while their damage to our constitutional protections are significant. The government should strive for security policies that are effective yet pose the smallest threat possible to Americans’ civil liberties. It’s troubling that recent polls show a significant percentage of Americans are ready and willing to submit to such invasive scans.

The ACLU has long opposed whole-body scanners or “millimeter-wave scanners,” calling the machines’ striking graphic images “the digital equivalent of a strip search” while noting their uncertain effectiveness. Salt Lake International Airport has utilized such full bodied scanners for the past year. Passengers have been given the choice to opt out of going through them due to their invasive nature but such a choice may not be continued in the future. It’s not clear that the machines would have detected the “anatomically congruent” explosives carried by the would-be bomber nor plastic

explosives or explosives hidden in body cavities. British authorities at Heathrow abandoned body scanners after a 4 year test concluded they were not effective for stopping terrorist threats to planes. Moreover, the machines’ ability to record and store images can be abused by operators, and software fixes to obscure faces can be undone as easily as it is applied. The machines are also expensive and will divert our finite resources from other uses that are proven more likely to do the most good (such as old fashioned law enforcement and intelligence work).

The ACLU has long opposed whole-body scanners or “millimeter-wave scanners,” calling the machines’ striking graphic images “the digital equivalent of a strip search” while noting their uncertain effectiveness.

The enhanced screening of airline passengers from the Muslim world (all but one of the 14 countries, Cuba, have significant Muslim populations) also raises constitutional concerns of racial profiling with highly uncertain benefits. Once aware of national profiling, terrorists will use people from “non-profiled” countries. Moreover, profiling can be counter-productive, eroding support from communities and increasing the sense of injustice that terrorists can exploit to justify further acts of terrorism. National profiling may have negative implications for Muslim-Americans as well, some of whom may feel increasingly out of

place and marginalized in America. Undertaking evidence-based, targeted investigations relying on individualized suspicion is more consistent with our values and more effective than diverting resources to a system of mass suspicion.

In these days when disasters and crises are such constant companions in our world, fear and anxiety are powerful motivators. It’s therefore essential that we remind one another of principles and values that are even more powerful and enduring as reflected in our Bill of Rights and Constitution: justice, liberty, and a government that is appropriately restrained by the rule of law and respect for civil liberties. History shows us that surrendering our liberties out of fear and panic ends up betraying our American values and principles without making us safer.

The tensions between freedom and security will be explored by Susan Herman, ACLU Board President and Professor of Law Amos Guiora at the S.J. Quinney College of Law’s annual Fordham Debate on Feb 1, 2010. The debate is titled “Constitutional Rights and National Security: Do We Have to Compromise?” As a law professor, Ms. Herman specializes in constitutional law and has written two books and numerous articles on civil liberties issues, including the due process rights of prisoners, the Patriot Act, the First and Fourth Amendment, socioeconomic rights and equality.

During her visit to Utah, Professor Herman will also be the keynote speaker at our ACLU State of the Union Luncheon and guest of honor at a Park City reception. Please join us at these events.

- See front page for event details -

About the ACLU of Utah

Founded in 1920, the American Civil Liberties Union is a nationwide, nonpartisan organization dedicated to working in the courts, legislatures, and communities to defend and preserve the individual rights and liberties guaranteed to all people in this country by both the Constitution and the laws of the United States.

The ACLU of Utah was chartered in 1958 to work on constitutional issues that are pertinent to those living in this state. Our priorities include freedom of speech, expression, and association; freedom of religion, including the separation of church and state; the right to privacy; safe prison and jail conditions; and equal protection and due process of the laws.

Staff

Karen McCreary, Executive Director
Marina Baginsky Lowe, Legislative and Policy Counsel
Anna Brower, Development Director
Darcy Goddard, Legal Director
Reinard Knutsen, Office Manager
Michelle Brester, Paralegal
Nariman Noursalehi, Legal Extern

Board of Directors

Jennifer Allred, Rebecca Chavez Houck, Beverly Dalley, Debra S. Daniels, Erika George, Lincoln Hobbs, Iqbal Hossain, Bonnie McBride Huntsman, Andy McCullough, Tarek Nosseir, David Reymann, Andrew Riggle, Andrea Rorrer, Jill Sheinberg, Zain Siddiqui, Richard Van Wagoner, Robert Wood, Doug Wortham

Legal Panel

Jensie Anderson, Stephen Clark, Roberto Culas, Linda Jones, Laura Kessler, Tom Mitchell, Cathy Roberts, Emily Smith, Trystan Smith, Karen Stam, Mary Woodhead

Interns and Volunteers

Elaine Ball, Jessica Elliot-Barlow, Mike Barlow, Karen Beltcher, Jen Bogart, Lydia Brower, David Brower, Logan Campbell, Eric Ethington, Bryan Glick, Diane Kallus, Lynda Lee, Corinne Rydman, Herta Teitelbaum, Tomasso Trudi, Vercheck Wenzel

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The President's Corner

Participating in holiday celebrations this year caused me to reflect on our fortunate country, its moral-ethical underpinnings, its past, and its future. My reflections were colored by two of the issues we are currently tackling at the ACLU of Utah affecting the less fortunate of our fellow citizens.

We, at the ACLU of Utah, are currently opposing the proposed Salt Lake City "pan handling" ordinance that would restrict the ability of those less fortunate people from even asking for help in locations considered to be inconvenient or embarrassing to the more fortunate people. If freedom of speech means anything, it ought to mean the freedom to ask for help when help is needed. It seems to me that, in addition to potentially violating the U.S. Constitution, an ordinance such as that proposed by the city, does not embrace the sentiments of the generous, caring, and thoughtful people of our community.

We are also working on indigent defense. As our staff attorney, Marina Lowe, recently wrote in a Utah State Bar Journal article, Utah ranks dead last in a study drafted by the National Legal Aid and Defender Association in compliance with the state's obligations (guaranteed to individuals in Utah by both the U.S. and state constitutions) to provide indigent persons caught up in our complicated legal system with access to effective legal counsel. I believe if most Utahns were aware of this issue, they would not find the state's position as worst in the nation at indigent defense compatible with their own consciences and sentiments.



Robert Wood
President

These two issues are not about the politically sensitive questions of whether welfare is a state responsibility; nor are they religiously or socially sensitive questions. One is about the freedom to ask for help, when and where help may be forthcoming, whether one is temporarily or permanently poor, mentally ill, or unfortunate. Surely, no thoughtful political, religious, or social philosophy would deny a citizen that freedom. The other is about the right not to be incarcerated because of lack of resources required to access our legal system.

Again, most thoughtful political, religious, and social philosophies would agree that if someone commits a crime there should be consequences (they may not agree on what constitutes a crime and what is an appropriate consequence); however, I do not believe any such philosophy would advocate that someone should be jailed because he or she has insufficient resources to provide themselves with adequate representation in a complex and often confusing legal system.

I urge you, in the spirit of the season we have just celebrated, to support us at the ACLU of Utah as we fight these battles for our less fortunate fellow human beings.

Big Brother is Watching: Surveillance Cameras in Utah

An increasing number of Utah cities are investing thousands of dollars in surveillance camera systems. Salt Lake City Police Chief Chris Burbank announced, in February 2009, that Pioneer Park would be under the surveillance of four cameras. In Sandy, the Police Department continues to expand the network of surveillance cameras that currently monitors 25% of the 22 square mile city. Additionally, traffic cameras have become ubiquitous throughout Utah, with few safeguards to ensure that the use of the images will remain limited to monitoring traffic conditions.

The police believe that the cameras will create a safer community by deterring crime, a position everyone appreciates, but evidence shows that surveillance cameras are an ineffective investment for achieving that goal. The ACLU questions whether surveillance cameras should be used in Utah. Surveillance cameras sacrifice privacy and are ripe for abuse, while research shows they do little or nothing to reduce crime.

Studies from around the world have shown that cameras are a bad investment for preventing, reducing, or solving crime. One study looked at video surveillance in Britain, which has 4.2 million cameras, one camera for every 14 people. Despite the prevalence of surveillance the study found that not only did the cameras not significantly reduce crime, they also did not reduce fear of crime. In other words, a resident of London, who is captured by an average of 300 separate cameras in a day, feels no safer and is no safer for it.

In another study, the University of California, Berkley conducted a comprehensive evaluation of San Francisco's surveillance cameras and concluded that they have failed in their mission to reduce violent crime. The Berkley study finds one reason for the failure is known as the displacement effect, where criminal activity moves from the area monitored by surveillance cameras to adjacent areas without monitoring.

The displacement effect has been seen in Salt Lake. The drug dealers

inevitably the drug dealers who were evicted from Pioneer Park will find a new home.

The ACLU is also concerned with advances in surveillance technology and the privacy implications new technology creates. Software exists that could easily be added to the surveillance networks in Utah that automatically scan the license plates of passing cars allowing police to track the location of any car they wish. There is also facial recognition software that can automatically identify a person whose image is captured by a camera. Although these technologies are not being used today, history shows that the government is willing to sacrifice privacy if it sees a threat to security. Big Brother may be just around the corner.

Advances in surveillance technology can be seen in Sandy, where the cameras are connected to a wireless mesh network, allowing the police to access the video remotely, even from the computers in their cars. The police and volunteers who monitor the cameras can pan, tilt, and zoom the cameras in real time. The high tech cameras could allow an operator to zoom in with the push of a button to see what book you are reading.

Even with policies to protect our privacy and prevent the cameras from being abused, once installed we have no idea how the cameras are being used. A study of the British surveillance cameras showed that people of color were two-and-a-half times more likely to be monitored



who formerly operated out of Pioneer Park have begun moving into the surrounding blocks. The owners of the many restaurants and nightclubs have complained to the police that the drug dealers are soliciting their customers, even in broad daylight. In response the Salt Lake Police Department conducted a three-day campaign to clear the area of drug dealing. The police succeeded in reducing the criminal activity for the moment, but

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Surveillance continued from page 4

and that one in ten women were monitored for entirely voyeuristic reasons. In San Francisco, a police officer was suspended for using surveillance cameras to ogle women.

ACLU affiliates across the nation have found that cities often install these cameras with little or no public debate, a trend that has found its way to Utah. In particular, when the Sandy City Council approved the installation of the surveillance cameras network, the public was not given an opportunity to discuss the privacy impact on Sandy residents. In fact, the Sandy City Council approved the installation of the surveillance cameras without even mentioning the impact it could have on privacy.

The expansion of surveillance in Utah is not inevitable. The question of how to address crime in Utah should be among our top priorities, but government officials must be shown that increased surveillance is not the answer. The ACLU will continue to urge policy makers to invest money in proven methods of crime prevention, like improved lighting and putting more police on the ground, rather than costly and ineffective surveillance cameras.

You may find more about surveillance systems around the country by visiting <http://www.aclu.org/technology-and-liberty/feature-public-video-surveillance>

Three New Members Join Board of Directors

The Board of Directors is deeply involved in many aspects of the ACLU of Utah work and organizational development. We are honored by all who choose to serve in this very demanding capacity.

With the beginning of the New Year, three long-term friends of the ACLU of Utah have retired from the Board of Directors, each after serving many years. The three leaving the board are: Sue Marquardt, a long-time community activist who worked for twenty-four years for the Division of Youth Corrections and the Division of Services for People with Disabilities; Marc Hoenig, an administrator in the College of Humanities at the University of Utah; and Tim Chambless, a Professor in the Department of Political Science at the University of Utah.

The ACLU of Utah welcomes our newly elected board members who will each serve a three year term.

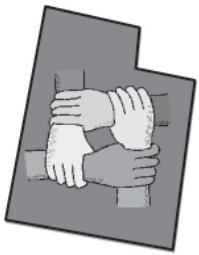
David Reymann is an attorney with Parr Brown Gee & Loveless and has particular expertise in First Amendment and media litigation, including open records laws, access to court proceedings, defamation, reporters' privilege issues, and anti-SLAPP litigation. David is the current President of the Salt Lake County Bar Association.

Andrew Riggle is the Disability Law Center's Public Policy Advocate and is involved in a range of issues from long-term care to housing to transportation and voting. Before that, he led a successful grassroots advocacy effort to increase funding for the Division of Services for People with Disabilities and helped coordinate a statewide campaign to protect federal programs critical to low-income Utahns.

Andrea Rorrer is an Associate Professor in the Department of Educational Leadership and Policy Studies at the University of Utah and Director of the Utah Education Policy Center at the University of Utah. Andrea has conducted policy research and evaluations on issues such as education equity, community learning centers, arts integration program, district governance, charter schools, and achievement gaps.



Board members at the first meeting of the year (bottom from left) Andrew Riggle, Doug Wortham, Iqbal Hossain, David Reymann, Debra S. Daniels (top from left) Jill Sheinberg, Jennifer Allred, Zain Siddiqui, Tarek Nosseir, Robert Wood, Rebecca Chavez Houck, Andrea Rorrer



Introducing the Enriching Utah Coalition

After working together for several years in an informal

capacity, several of Utah's most prominent immigrants' rights and advocacy organizations have formed the Enriching Utah Coalition (EUC). Those organizations involved in the group share, and act based upon, these primary principals:

1. Immigrants benefit Utah, economically, culturally and socially.
2. Effective immigration law must be enacted and administered at the federal level.
3. Human rights and human dignity must be respected.

The Enriching Utah Coalition came together, out of other smaller informal networks of collaboration, in 2009 to better anticipate and respond to an increase in anti-

immigration legislation and policies at the state and local levels.

As a formal coalition, the group is better able to disseminate information about immigrants' rights and how policy changes impact immigrants (and others, as well). The Coalition can also gather information about how legislation such as SB81 is affecting immigrants and other Utahns.

The EUC is off to a great start, focusing its efforts in three primary directions:

- 1) The legislative session,
- 2) an upcoming summit to help Utahns across the state organize around immigration issues, and
- 3) a statewide survey to assess the needs and goals of Utahns working in the area of or affected by immigration.

MEMBERS OF THE ENRICHING UTAH COALITION:

American Civil Liberties Union of Utah, Catholic Diocese of Salt Lake, Centro Hispano, Comunidades Unidas, Democracy Schools, First Unitarian Church, Horizonte Welcome Center, Latin American Chamber of Commerce, Multicultural Health Network of Utah, Salt Lake Community Action Program, Salt Lake Quakers, Social Justice Scholars, State Office of Ethnic Affairs, Utah Coalition of La Raza, Utah Health Policy Project, Utah Latino Center, Utah Latino Network, Utahns For Comprehensive Immigration Reform, American Immigration Lawyers Association

- Check us out on Facebook -

How Has Life in Utah Changed Since SB81?

As of January 2010, SB81, Utah's omnibus anti-immigrant bill, has been in effect six months. While the law has undoubtedly created a lot of fear, concern and ill-will, it also seems that this piece of policy has had an actual impact on the day-to-day life of many Utahns, including immigrants.

Though much of this legislation was a retread of federal immigration law from 1996, adopted into state statute, there have been some indications that SB81 has had a number of unintended (and largely negative) consequences in its implementation. For example, preliminary information indicates that in areas where local law enforcement has been empowered to enforce aspects of federal immigration law, racial profiling has increased with no measurable benefit to public safety. Additionally, and most recently,

the provisions of SB 81 related to obtaining drivers licenses (along with requirements of the federal Real ID ACT) have severely impacted the ability of all Utahns to access DMV offices in the state.

After a galvanizing visit in October 2009 from Vik Malhotra, state strategist for the national ACLU's immigrants' rights project, we have been focused on how we might be able to track and quantify such consequences of the law. Working in coalition with partner organizations, we are also developing more effective ways to anticipate and react to new immigration-related policy and practices (see article on Enriching Utah Coalition, page 7). During his visit, Vik reinforced that Utah is at the forefront of a wave of anti-immigration momentum



that will likely heat up if and when the federal government decides to confront the monumental task of comprehensive immigration reform.

With that in mind, the ACLU of Utah will continue to focus on the constitutional implications of state and local policies like SB81. And as federal comprehensive immigration reform looms, we will be watching for any reform provisions that might compromise the privacy of citizens, and fundamental American principals like due process, judicial review and equal treatment under the law.

IMMIGRATION ISSUES IN THE ARTS: Plan-B Theatre's "AMERIGO"

Who truly discovered America? Is it home to religious visionaries? A salesman's paradise? Sexualized commerce? Nature commodified?



These are the questions at the heart of AMERIGO, a new and original play from Plan-B Theatre Company. AMERIGO is set in Purgatory, in the midst of an argument between several historical figures who influenced, in some way, the development of the American continent. The substance of their debate: Who are we, really, as Americans?

Two key contributors to the conversation are **Christopher Columbus** and **Amerigo Vespucci**, two of the explorers who spearheaded the European "discovery" of the Americas. Another is **Sor Juana Ines de la**

Cruz - a nun who devoted her life to the native people who were already living on the continent when the Europeans landed (see article below). And narrating the discussion is the ultimate political pragmatist,

Niccolo Machiavelli, who has influenced so much American political and cultural philosophy since our nation's inception.

So are we a nation of immigrants, or of conquerors? Who is a "real" American - is there even such a thing? Who "deserves" to be an American - and what is the future of the many diverse people who live here, "deserving" or not? This exploration of identity in the U.S. persists even today, as we struggle to reconcile the contributions of and challenges posed by those who flock to our shores.

Free Film Screening: "I, The Worst of All" About the Life of Sor Juana Ines de la Cruz

As an examination of historical American cultural identity, there will be a free screening of "I, The Worst of All," a Brazilian film (sub-titled) based on the life of Sor Juana Ines de la Cruz. The film provides a fascinating look at how persecuted populations sometimes turn against one another, for the sake of self-preservation.

Sor Juana Ines de la Cruz represented many marginalized populations, all combined in the

form of a single Mexican nun. She was the illegitimate child of a Spanish nobleman and a native woman from Yecapixtla in Mexico. In a time when women were not encouraged to read or write, Sor Juana was a voracious scholar who became a revered poet.

History also indicates that Sor Juana was in fact a lesbian, who carried on an emotional affair with the wife of a Spanish Viceroy. Her life is a fascinating example of how different aspects of one person's identity can contradict and clash with one another. We hope the film will shed light on how similarly marginalized populations - such as the LGBT and immigrant communities - may have more in common than we sometimes realize.

**TUES, APRIL 13
7:00 P.M.**

**@ the Tower Theatre
(876 E. 900. in SLC)**

FREE & OPEN TO THE PUBLIC!

Immigration-related Legislation in the upcoming session

The ACLU of Utah anticipates that immigration may once again be targeted during the 2010 legislative session. In particular, we anticipate that legislation may be introduced in the following three areas:

In-state Tuition: Utah is one of only a hand full of states that allows students who attended at least three years of high school in Utah, graduated from a Utah school, and meet certain other conditions, to attend state colleges and universities at the same rate that is charged to state residents. Despite a recent legal challenge in California to a similar law in that state, the ACLU of Utah believes that the law allows Utah to continue to provide tuition to these qualifying and deserving students. We hope legislation will not be introduced to repeal this practice in Utah, but should that happen, we will vigorously work to defend our law!

Drivers Privilege Cards: We anticipate that the Utah law allowing for non-citizens to obtain and use Drivers Privilege Cards may again be vulnerable to repeal. We will monitor this bill and if necessary, work with partners to defend its existence.

S.B. 81: Utah legislators enacted a broad state law related to immigration enforcement in 2008, and implemented the same in 2009. We will be on the watch for any attempts to modify or amend S.B. 81.

If you are on Facebook become a friend of the ACLU of Utah and let others know that you care about civil liberties.

The ACLU on the Hill: Priorities for the 2010 Utah Legislative Session

It's that time of year again...the legislature will be back in session at the end of January! The ACLU of Utah will, of course, be actively working on legislative issues on a variety of topics this year. Despite severe budget concerns, the legislature will be addressing potential legislation on a myriad of subjects. While many bills are not yet available, we anticipate legislation in the following areas:

Participatory Democracy:

Voting and election related bills will dominate the agenda at the legislature in 2010. In particular the ACLU of Utah is excited about the prospect of finally passing the bill, drafted by the ACLU of Utah, which seeks to reform the process of **challenging** voters as ineligible to vote. The bill would allow for voter challenges according to a procedure that would take place prior to an election and that would afford due process to challenged voters.

Also on the ACLU of Utah's radar is a bill to allow for **same day election registration** and voting. This concept was unanimously supported in the Governor's recent Commission on Strengthening Democracy. States that already have same day registration in place have experienced significantly increased voter turnout!

Again in the interest of increasing voter turnout, the ACLU of Utah will be supporting legislation that allows for **voter registration** to occur automatically when Utahns fill out various state forms.

Finally the ACLU of Utah will be monitoring bills related to **ethics reform, redistricting** and revisions



to the state **open records law**, GRAMA.

Immigrant Rights:

See page 7 for a detailed summary of potential immigration related legislation.

Privacy & Technology:

The development of technology and the corresponding concern over the invasion of privacy is an area of legislative concern for the ACLU of Utah. This year, the ACLU of Utah again anticipates the introduction of legislation to **collect DNA from individuals arrested** for certain categories of crimes. If passed, this bill would contravene the 4th Amendment's requirement that a warrant be obtained before engaging in an invasive search.

The ACLU of Utah will again be supportive of a proposal for **Utah to Opt Out of the federal Real ID program**.

Reproductive Freedom:

Unfortunately, it looks like reproductive freedom will again be under fire from the Utah Legislature. The ACLU of Utah will be actively working against the passage of a bill, HB 12 "Abortion Amendments"

to amend the law to create **criminal liability for women who obtain non-physician provided abortions**. We are particularly concerned about the implications of this bill for women who suffer miscarriages through no fault of their own. We will also be paying close attention to other bills that potentially impact a woman's access to reproductive freedom, including HB 200 "Informed Consent Amendments, a bill to modify Utah's informed consent provisions, which must be met prior to obtaining an abortion.

Finally, we will be supportive of a bill to improve Utah students' access to **sex education** in public schools.

LGBT RIGHTS:

LGBT issues may figure prominently in the 2010 legislative session. The ACLU of Utah will be working in support of legislative efforts to allow **LGBT individuals to have families and custody of their children**.

The ACLU of Utah will again advocate for the right of LGBT individuals in our state to enjoy protection from discrimination, particularly with respect to employment and housing.

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Finally, the ACLU will work against any effort by the legislature to preempt Salt Lake City and other local municipalities' efforts to provide for equal rights to LGBT citizens.

Other:

The ACLU of Utah also anticipates legislation related to **enhanced penalties for HIV positive offenders**, and will work against this sort of unconstitutionally punitive proposed scheme.

Additionally, any legislative attempts to require **drug testing for welfare recipients** will be vociferously objected to by the ACLU of Utah, on grounds that this type of program is a violation of the 4th Amendment and is unnecessarily costly.

Make sure you are on our ACLU Activist email list to get alerts about legislative updates. Sign up from our website at www.acluutah.org/activist.htm.

New Legal Director Joins ACLU of Utah

After an intensive search, that included interviewing applicants from across the nation, the ACLU of Utah is pleased to announce that Darcy Goddard has accepted the position of Legal Director and will be joining the Utah affiliate full time on January 25th.

"I first became aware of the ACLU when I was 13 years old, and I have wanted to work with the organization ever since," says Darcy. "Its commitment to the preservation of liberty, regardless of party ideology or majority opinion, is unparalleled. I feel blessed to be part of that mission going forward, especially here in Utah where I am also able to live near family and life-long friends."

Darcy comes most recently from New York where, for the past two years, she has served as an Assistant Attorney General in the Office of Andrew M. Cuomo, from whom she received both the 2009 Attorney General's Special Award and the 2008 Attorney General's Louis J. Lefkowitz Award in recognition

of exceptional service. She brings with her a wealth of legal experience that includes not only ten years of private and public litigation and investigative work, but also a clerkship for Judge David M. Ebel at the Tenth Circuit Court of Appeals in Denver and an internship at the United States Supreme Court.

"I am particularly excited to be part of the ACLU of Utah's efforts to protect a citizen's right to privacy in his or her person or home, to guarantee the freedoms of religion and speech, provide due process for those accused of criminal acts, and to ensure equality for the LGBT community," Darcy explains.

Darcy has an established reputation for volunteer legal work. While in private practice, she spent hundreds of hours a year on pro bono projects encompassing such diverse subject areas as the First Amendment, family law, gun control, employment law, fair housing, street crime and immigration law. Her generous gift of time and energy was recognized in 2006, when she was designated an "Empire State Counsel" by the New York State Bar Association.

Originally from Idaho, Darcy graduated cum laude and Phi Beta Kappa from Smith College in 1995. She received her law degree from the University of Virginia School of Law in 2000, where she was a Notes editor of the Virginia Law Review and research assistant to Professor James E. Ryan. While in law school, she assisted with the successful appeal to the United States Supreme Court on behalf of Benjamin Lilly, a death row prisoner from the State of Virginia.

An avid hiker and SCUBA diver, Darcy is looking forward to exploring some of the beautiful mountains and lakes around Utah.

IT IS TIME TO PUT LIBERTY BACK IN UTAH

ACLU LOBBY NIGHT

February 4, 2009,

6:00-7:30 p.m.

355 North 300 West
Salt Lake City

Come join us at the ACLU of Utah offices to learn how to lobby your legislators on issues that are important to you and to the ACLU. We will discuss: **how the legislature works; how citizens can have an impact on their elected representatives; issues that the ACLU of Utah will be following** this legislative session.

Come learn how you can be an ACLU citizen lobbyist!

Refreshments will be served.

For more information visit our website www.acluutah.org



Civilian Review Boards Offer Community Oversight of Police

Police officers have broad powers to enforce the law. Abuses of that power are seen when they do not also take responsibility to enforce laws well and wisely. The Rodney King and Abner Louima cases reported in 1991 and 1997 illustrated the most egregious ways that officers can abuse their powers. The national ACLU published suggestions for establishing civilian review boards in 1991. In Utah there are currently Civilian Review Boards only in Salt Lake County and Salt Lake City.

If citizens want to review police action taken in response to an accusation of police brutality, or other impermissible behavior such as harassment or racial profiling, a civilian review board should be established. There are three types of Boards which have arisen in response to differing community problems. The traditional model of the civilian review board arose in response to the perception that citizens were not able to give input into concerns that affected their communities. Scrutiny by a civilian board into internal police investigations enables citizens to provide that input and allows for transparency to the process. However, this model only has the ability to review an investigation that has been completed by the police. In addition, the traditional model is not able to provide policy recommendations for abusive patterns or practices found in the law enforcement agency.

A more flexible alternative to the traditional model Board arose to address its perceived weaknesses. Its abilities usually include the power to conduct separate, concurrent investigations, provide

discipline recommendations, and sometimes the capacity to review police operations. Other powers some Boards of this type are given can include the ability to review the annual budget, subpoena witnesses, investigate the initial complaint independently, interview officers and issue findings of fact. Boards of this sort include at least one paid investigator employed by the municipality. These Boards are able to report to the mayor or city council in addition to the Chief of Police. If the Chief of Police is an elected official, they may have the ability to make hiring and firing recommendations. While the rest of the Board is usually comprised of volunteers, its members may be appointed by the municipality in order to maintain diversity of representation.

This flexible model may be the most effective kind of Board for both individual complaint investigation and policy feedback, but it can be the target of budgetary constraints such that the Board's resources are focused solely on its investigatory capacity rather than its ability to make policy recommendations.

The final model arose to address the perceived inability of the others to effectively and consistently address policy issues. In addition, critics showed that police departments with problems occasionally misplaced the responsibility onto the reviewing organization instead of squarely within the law enforcement agency. These boards are set up to look at the entire law enforcement agency to determine how well the agency addresses police misconduct, if it corrects patterns of unconstitutional or illegal behavior, and how well the agency looks at individual

officer performance. However, this model does not allow for community representation, and occasionally gives rise to the perception that the organization is too closely intertwined with the law enforcement agency it works with to be objective.

It is very important that any board a community establishes is perceived to be unbiased both by the community and the law enforcement agency it reviews. This perception can be achieved by investigations which are independent, fact-based, and do not promote any political agenda. The board needs to be able to hold independent investigations targeted to the concerns of the community. For example, Salt Lake City independently investigates all complaints of excessive force and allegations of prejudice or bias on the part of the police.

The two biggest hurdles in setting up an effective civilian review board in any community are budget and law enforcement's reluctance to be monitored by an outside entity. Signs that this attitude may be changing have recently appeared in the November issue of "The Police Chief," a law enforcement journal, which indicated that because civilian review boards are a fact of life in many jurisdictions across the country, the question remaining is how to balance the concerns of both law enforcement and board.

Civilian review boards can be successfully established in a community when the elected officials of the community as well as the local law enforcement agency are won over to the idea by concerned citizens.

ACLU Donors in Utah Responding with Contributions

There is certainly no consensus as to whether the U.S. economy is improving and the future is quite uncertain. At the ACLU of Utah, however, we are cautiously optimistic and, above all, grateful.

Our board and staff have been touched as your end-of-year donations rolled into the office throughout the holidays and into the new year. We recognize that ACLU of Utah members and donors - like most Utahns - are facing difficult financial challenges of their own, and we appreciate the continued support.

We know that you - our members, donors and friends - are doing your best to make the ACLU a top priority for charitable giving. In addition to monetary contributions, you have been making donations of your own time, as in-office and event volunteers. You have been extending in-kind donations, as well - free lodging to visiting speakers, for example, and discounts on event expenses.

The simple truth is, we cannot do our work without your support - and we can't thank you enough for that support. We are proud to say that we are stretching every dollar to the limit, and we encourage you to continue to give during this challenging time for the ACLU!



At the 2009 Bill of Rights Celebration: Not just volunteers, but members and donors, too!

National ACLU Rallies to Fill \$20 Million Budget Gap

As reported by the *New York Times* in early December 2009, a longtime anonymous donor to the American Civil Liberties Union had to withdraw his annual gift of more than \$20 million, punching a 25-percent hole in its annual operating budget and forcing cutbacks in operations.

For a number of years, the ACLU received extraordinary support from this anonymous donor, including over \$20 million in 2009 alone. Due entirely to market conditions - not any quibble with the ACLU and its work, as he has publicly affirmed - he will not be able to lend the ACLU that same support in 2010.

David Gelbaum, the largest individual donor in ACLU history - someone who chose to give anonymously for years - decided to reveal the reasons for his support to the ACLU so that we can fully describe this situation to our supporters. In Mr. Gelbaum's own words, he's made this decision so that the ACLU, "will not be constrained by donor confidentiality, may fully explain how these programs were created and financed, and may ask others to step forward to help sustain them in the future."

It is unclear at this time how this budget shortfall at the national level will affect state-level affiliates, particularly very small offices like the ACLU of Utah. We do know, though, that in response to this crisis, the ACLU is engaged in belt-tightening at every level of the organization. The ACLU of Utah benefits greatly from support from the national ACLU office - not simply financial support, but also assistance in the form of the ACLU's many legal and legislative experts.

Our small organization does not have the staff, time or financial resources to conduct the type of

in-depth research and analysis that our national counterparts can. Since we are regularly expected to be experts on just about any and every evolving civil liberties issue, we must rely heavily on their knowledge and guidance.

Mr. Gelbaum's generous contributions supported many critical areas of the ACLU's work, particularly those projects that impact our nation's most vulnerable populations. Mr. Gelbaum donated millions to such issue areas as Race and Poverty, Drug Law Enforcement Reform, Prisoners' Rights, Immigrants' Rights, Death Penalty Reform and much more.

Because this one generous donor is not able to give at his previous level, the rest of us must step up to ensure that the work he funded will continue to thrive in this new decade. Protecting the ACLU's most essential work will require an extraordinary outpouring of support.

Your personal participation is critical because the ACLU's far-reaching work is part of the very fabric of America. The ACLU and supporters like you have stood as a bulwark for freedom in America for the past 90 years-fighting for justice and against extremism at every turn. You can use the envelope included with this newsletter to mail your donation to the ACLU of Utah today.

We act together because - when it comes to defending freedom - it is really up to each and every one of us. In the face of the daunting financial challenge of losing millions of dollars of committed support, it's up to us to stand together again.

All of us at the ACLU are confident we have the vision, the commitment and the supporters to get us through this crisis!



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Become an ACLU of Utah Activist

Keep up-to-date with all of the ACLU of Utah's upcoming events and action alerts by signing up for the ACLU of Utah's Activist email list from our website at www.acluutah.org/activist.htm.

If you are on Facebook become a friend of the ACLU of Utah and let others know that you care about civil liberties.

Save the Date!

Bill of Rights
Celebration
May 1, 2010

Salt Palace
Convention
Center
Details Soon



Special thanks to
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