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January 30, 2009

House Law Enforcement and Criminal Justice Standing Committee  
Utah House of Representatives  
25 House Building, Utah State Capitol Complex  
Salt Lake City, UT 84114

Re: Senate Bill 16, "Prohibited Gang Activity"

Dear Committee Member,

On behalf of the American Civil Liberties Union of Utah, I urge you to vote against S.B. 16, "Prohibited Gang Activities." Although the ACLU of Utah appreciates the need to address gang violence, we are concerned that legislation like S.B. 16 employs unavoidably vague language and as a result, can lead to racial profiling.

Anti-gang legislation like S.B. 16 tends to have a disproportionate impact on youth of color who are most often identified as 'gang-affiliated' by law enforcement and other justice system players. Studies show that gang affiliation often is presumed for young Latino males. Gang identification is notably unreliable and vague, based on loose criteria (tattoos, "hip-hop clothing," living in low-income, high crime neighborhoods) that implicate a large portion of minority youth.

Groups including the Justice Policy Institute and the conservative Heritage Foundation conclude that anti-gang efforts of this type are unnecessary, ineffective, and often unconstitutional.<sup>1</sup> Anti-gang efforts often focus on the wrong targets, usually due to racial discrimination, thus making this type of legislation ineffective in curbing crime. Leaving aside the constitutionality of such efforts, in places where similar legislation has passed, there have been few quantitative evaluations of gang-suppression programs, which leave the effectiveness of anti-gang laws in significant doubt.

The language employed in bills of this type allowing a police officer to decide based on his or her "reasonable belief" whether an individual is a gang member often allows for legalized cover for racial profiling. This type of tactic erodes public confidence and trust in the police and the justice system overall. In turn, public safety is placed in jeopardy because members of these communities fear harassment and abuse by the police and

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<sup>1</sup> Johnson, Stephen, and David B. Muhlhausen. "North American Transnational Youth Gangs: Breaking the Chain of Violence." The Heritage Foundation, March 21, 2005  
[http://www.heritage.org/Research/UrbanIssues/upload/75830\\_1.pdf](http://www.heritage.org/Research/UrbanIssues/upload/75830_1.pdf); Little, Erica, and Brian Walsh. "Federalizing 'Gang Crime' Remains Counterproductive and Dangerous." The Heritage Foundation, June 5, 2007.  
<http://www.heritage.org/Research/Crime/wm1486.cfm>; Muhlhausen, David B., and Erica Little. "Gang Crime: Effective and Constitutional Policies to Stop Violent Gangs." The Heritage Foundation, June 6, 2007.  
<http://www.heritage.org/Research/Crime/lm20.cfm>

therefore are unlikely to seek police help when they legitimately need it, i.e., to report a crime, serve as a witness or on a jury, or otherwise cooperate with law enforcement.

Instead of vaguely worded laws that permit considerable law enforcement discretion in deciding who is a gang member, it would be better to support the implementation of preventative measures, including strengthening family ties and community-based efforts to stabilize neighborhood dynamics. For example, in Chicago, the CeaseFire program (<http://www.ceasefireillinois.org/>) has proven very successful in effectively addressing gang problems.

For the foregoing reasons, we urge you to vote against S.B. 16.

Regards,

Marina Lowe  
Staff Attorney