



Liberty Reporter

Summer 2013

Newsletter of the American Civil Liberties Union of Utah

The 55th Anniversary Bill of Rights Celebration



Left: ACLU of Utah Executive Director Karen McCreary honors the Salt Lake Dream Team, a group of undocumented immigrant students who have lived in our country since they were children, with the 2013 ACLU of Utah Torch of Freedom Award for their activism on defending undocumented immigrants' civil liberties. Right: ACLU of Utah Development Director Anna Brower honors plaintiff Tina Weber by presenting her with a copy of *In Our Mothers' House*, a children's book about same-sex families, signed by the ACLU of Utah's grateful staff. Ms. Weber, represented by the ACLU of Utah, successfully sued for the return of the book to the library shelves at several elementary schools in Davis County.



Top: ACLU Plaintiff Alicia Cervantes catches up with Brandy Farmer from CODA, the Council on Diversity Affairs. Middle: Attendees chat over breakfast. Bottom: Staff attorney Leah Farrell hugs ACLU plaintiff Kevin Winston, while his teenage son, Kaleb, takes in the excitement!

The ACLU of Utah's 55th Emerald Anniversary Bill of Rights Celebration was a sparkling success! This year, nearly 300 guests enjoyed coffee, breakfast, and free Mimosas and Bloody Marys while chatting with friends and fellow supporters about protecting civil liberties in Utah.

The morning kicked off with a video featuring ACLU of Utah plaintiffs who shared their struggles against oppressive state laws, including HB 461 (a law mandating a 72-hour waiting period for women seeking abortions), and HB 497 (Utah's version of Arizona's "Show me your papers" law), which, thankfully, the ACLU of Utah has helped block for two years!

Executive Director Karen McCreary presented the 2013 Torch of Freedom Award to the Salt Lake Dream Team, a group of courageous students who have exposed their undocumented immigrant status in pursuit of immigration reform. Attendees also heard from Tina Weber, the ACLU of Utah plaintiff who successfully sued the Davis School District for the return of *In Our Mothers' House*, a charming children's book about a same-sex parent family, to elementary school library shelves in Davis County.

2013 Youth Activist Scholarship recipients Liesl Darger, Eliza Grainger, and Sheila Lazcano accepted awards honoring their advocacy for religious freedom, comprehensive sex education, and expanding educational opportunities for immigrants, respectively.

Thank you to all who participated, including our amazing volunteers. We look forward to defending civil liberties in Utah for another 55 years! [Many more pictures can be found at www.acluutah.org/BOR13.html](http://www.acluutah.org/BOR13.html)

IN THIS ISSUE

2

- The Director's Chair: The Time is NOW!
- About the ACLU of Utah

3

- Member Profile: Paul Wharton & Ethel Hale
- *Sin País* Film Screening

4

- On The Hill: Legislative Report
- We Walked With Pride For Equality!

5

- Prison Use Of Tear Gas Lawsuit
- Gang Case At Supreme Court

6

- Film Screening Examines 50th Anniversary Of Right To An Attorney

7

- National ACLU: Marriage Equality, Gene Patents, and Privacy

8

- 2013 Annual Membership Meeting & Office Open House

The Director's Chair



Karen McCreary, ACLU of Utah Executive Director

The Time is NOW!

This month, the United States Senate takes up discussion of a broad immigration bill passed out of the Senate Judiciary Committee in late May. The bill (S. 744, Border Security, Economic Opportunity and Immigration Modernization Act of 2013) is one whose fundamentals were crafted by a bi-partisan “Gang of Eight” senators and which emerged relatively intact following a series of hearings ably chaired by Senator Patrick Leahy. Utah Senator Orrin Hatch is to be commended for voting positively to move the bill forward. The bill updates our legal immigration system, adds resources for immigration enforcement, and provides a process by which undocumented immigrants in the U.S. may earn legal status and eventual citizenship. This is the time and this is the opportunity we in the ACLU have been working towards steadfastly for a number of years: assuring rights for over 11 million men, women, young people, and children who have been living in the shadows in the U.S. It’s been encouraging to witness the overwhelming support for immigration reform from the public, business, and faith communities. The Enriching Utah Coalition, of which the ACLU of Utah is a member, has been meeting weekly in our offices to keep abreast of developments, to strategize, and to implement lobbying and educational efforts in support of Comprehensive Immigration Reform.

As the Senate begins its floor debates, another bill will be emerging from the House. The ACLU is committed to ensuring that any reform law incorporates these fundamental principles:

- Guarantee a pathway to citizenship for over 11 million aspiring Americans, without being tied to onerous border triggers or other obstacles.
- Keep families together by strengthening the “right to reunite” family provisions and visa programs for future immigrants.
- Secure rights and protections for all workers.
- Honor the rights and contributions for all including due process protections for immigrants, the rights to appointed counsel for those unable to represent themselves; diversity in our immigration system and

equal treatment under the law for same sex couples.

It’s critical that the bill creates a pathway for the great majority of the 11.5 million undocumented immigrants in the U.S. Providing a path to legal status for these aspiring Americans will help restore the immigration system by putting an end to the cycle of mass deportation and the destruction of families. It will bring these individuals into a state of equality in American society with the accompanying benefits and responsibilities. The proposed Senate bill rightfully puts its trust in a system that affords immigration judges greater ability to exercise discretion and to consider cases on their individual merits. Another positive in the proposed bill is a provision for DREAMERS, establishing an expedited path to lawful permanent residence (five years) and citizenship. In addition, it’s important that the bill contain detention reforms, such as prompt bond hearings and alternatives to detention in immigration jails.

We are concerned that the proposed mandatory E-verify system raises the possibility of a national identification system impacting the fundamental privacy rights of all workers. The current system has been error prone but amendments have offered hope for improving accuracy and providing support for

small businesses as well as the inclusion of valuable due process protections. While the proposed Senate bill includes language banning racial and ethnic profiling, it does not contain a ban on profiling based on religion and national origin. These inclusions are critical.

The proposed bill recommends greater border security and new enforcement

measures – calling for the government to spend billions more dollars in taxpayer money even when prior security benchmarks have already been met and resources invested there are at an all-time high. We are concerned that more border surveillance and checkpoints will increase the militarization of the border, leaving U.S. border communities with fewer civil rights and civil liberties and increasing the use of excessive force and other civil rights abuses by border patrol agents.

Both at the state and the national level, the ACLU has been actively involved in the push for Comprehensive Immigration Reform. Our national ACLU Washington Legislative Office has been working around the clock. Here in Utah, we have been reaching out to a wide number of individuals and companies to urge them to voice their experiences underlying the need for reform. It’s essential for our Utah delegates to know how critical this bill is to our state.

Please contact Senators Lee and Hatch as well as your House representatives to urge them to support comprehensive immigration reform.

More information about this bill and how to take action can be found at www.aclu.org/immigration-reform-2013

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 principles 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

Staff

Karen McCreary, Executive Director
Anna Brower, Development Director
Marina Baginsky Lowe,
Legislative and Policy Counsel
John Mejia, Legal Director
Leah Farrell, Staff Attorney
Angie Stefaniak, Operations Coordinator
Reinard Knutsen, Office Manager
Lauren Burns, Development Assistant

Board of Directors

Rebecca Chavez Houck, Dianna Cannon,
Chase Clyde, Russell Fericks,
Barry Gomberg, Iqbal Hossain,
Roderic Land, Alexander McDonald,
Tarek Nosseir, Cathleen Power,
Catherine Putnam-Netto, David Reymann,
Jill Sheinberg, Larry Stevens,
Clifton Uckerman, Robert Wood

Legal Panel

Jensie Anderson, Rusty Andrade,
Stephen Clark, Parker Douglas,
Laura Kessler, Clemens Landau,
Tom Mitchell, Tyson Snow, Karen Stam,
Aaron Tarin, Mary Woodhead

Interns and Volunteers

Taylor Burton, Cody Egan, Julia Goldman,
Jason Hardy, Derek Julio, Rebecca
Martinez, Morgan Matthews, Maureen
Minson, Curtis Penfold, Stephanie
Pitcher, Ben Rush, Ali Sadler, Alana
Schroeder, Matthew Stern,
Herta Teitelbaum

Contact Information

355 North 300 West
Salt Lake City, UT 84103
Phone: (801) 521-9862
Fax: (801) 532-2850
aclu@acluutah.org
www.acluutah.org

Special thanks to XMission for their generous donation of Internet services



Member Profile: Paul Wharton and Ethel Hale

We are honored to profile ACLU of Utah members Paul Wharton and Ethel Hale, two of our longest continuing members! Ethel joined the ACLU of Utah in the late 1950s, soon after our organization was founded, while Paul joined in 1965. The couple has worked as dedicated activists and defenders of civil liberties in Utah for almost 50 years.

Ethel describes herself as a “working class intellectual,” and has spent her life advocating for criminal justice reform, freedom of the press, and voter enfranchisement. She first became interested in criminal justice in high school, after an enlightened teacher of hers challenged her classmates’ idea that our criminal justice system fosters rehabilitation. As Ethel explains, “Imprisonment perpetuates the idea of retribution rather than correcting the problem,” a reality she believes has not changed much since she was a student.

Paul, an attorney who attended Harvard and received his JD from the University of Utah, is passionate about the First Amendment freedoms of speech and the press. He worked for Utahns Against Hunger and then for Utah Legal Services, where he advocated on behalf of senior citizens’ access to Medicare and Social Security. Paul has also served on the ACLU of Utah’s Legal Panel. In 2001, he received the ACLU of Utah’s Mickey Duncan Award for his work at Utah Legal Services.

The couple has additionally been recognized for their peace activism, environmental conservation, and social justice work on a range of issues.

In 1968, the couple filed a petition against the Utah broadcasting company KSL, objecting to the renewal of its operating license that had been granted by the FCC. Ethel and Paul criticized KSL for representing the opinions and interests of a narrow swath of Utah listeners, as well as what the couple viewed as the company’s inappropriate connections with the LDS Church. Although their petition was eventually denied, Ethel and Paul established

“Take a long view of history so you don’t get discouraged. Struggling for justice and fairness can be discouraging and even painful. But we should never give up.” – Ethel Hale



Paul Wharton and Ethel Hale reminisce about their long history with the ACLU of Utah.

themselves as champions for freedom of the press in Utah.

The couple also advocates progressive approaches to criminal justice administration, arguing that the U.S. system’s focus on punishment - as opposed to education - is counterproductive. Ethel explains, “Punishment is negative as an educational tool.” Paul agrees, adding that “our criminal justice system tries to teach others by punishing some as an example, but that doesn’t work. You don’t need corporal punishment to teach. You don’t beat your parakeet with a toothpick to teach him a lesson.” In addition, Ethel believes providing more robust social services in correctional facilities would deter crime and reduce

recidivism. She notes that while we think of police officers, and not social workers, as providers of criminal justice, “young children don’t set out to be criminals.”

When asked about the state of civil liberties today, Ethel explains, “I’m sorry to remark that the issues haven’t changed much in the last several decades. While clearly civil rights have the public’s attention, civil liberties don’t present dramatic images that the public can rally around.” (Ethel conceptualizes civil liberties as primarily a legal concept, while civil rights have more to do with political activism). However, the couple agrees there’s a lot to be hopeful about. Paul comments that social justice work is a “long, slow process,” explaining “You don’t get a great victory except for once in a while.”

For example, he notes that *Gideon v. Wainright*, the Supreme Court case establishing the right to indigent defense, was a monumental social justice victory, even though funding for indigent defense across many states today, including in Utah, is quickly evaporating. Paul explains, “Fighting for social justice is two steps forward, one step back. But still, it’s a very rewarding struggle.”

Ethel shares some advice for people hoping to pursue civil liberties activism: “I think it’s important that if you find yourself uncomfortable in this society, learn as much as you can about politics and history, with an emphasis on penology and criminal justice administration.” In her opinion, the nexus of politics, history, and criminal justice has impacted the lives of more Americans than most other factors. Finally, Ethel stresses the value of patience: “Take a long view of history so you don’t get discouraged. Struggling for justice and fairness can be discouraging and even painful. But we should never give up.”

Sin País: Film Screening and Community Discussion On Immigration

Tuesday, June 18 at 6:30-8 pm
Salt Lake County Council Chambers
County Government Center
2001 South State St., #N1100
Salt Lake City, UT 84190

Join the ACLU of Utah and Enriching Utah Coalition for a free screening of *Sin País (Without Country)*, a film that attempts to get beyond the partisan politics and mainstream media’s ‘talking points’ approach to immigration issues by exploring one family’s complex and emotional journey involving deportation.

- A reception with refreshments begins at 6:30 pm
- The 20 minute film will start at 6:50 pm and will be followed by a panel discussion of immigrant rights and a call to action



More information can be found at www.acluutah.org/Sin-Pais.html



ON THE HILL

From a civil liberties perspective, the 2013 Legislative Session was thankfully somewhat milder than previous years. Immigration and reproductive health legislation, typically fertile ground for Utah legislators, was uncharacteristically muted compared to measures introduced in previous sessions, and in other states around the country. Conversely, for the first time in many years, an LGBT nondiscrimination bill made historic progress in the legislature! Despite the more moderated tone on the Hill, we vigilantly monitored many legislative attempts to threaten civil liberties in Utah. In addition to the bills we highlighted in our last newsletter, here are a few more notable bills that we focused on during the 2013 session:

BY THE NUMBERS

43

Bills tracked and actively lobbied for or against

6

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

6

Anti-civil liberties bills stopped or neutralized

20+

Committee hearings attended

8

Bills testified in support of or against

2

Citizen Lobbyist Trainings, including 1 in Southern Utah

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: Aria Nejad, Christopher Mercer, Daniel Nielson, Diana Bradley, Jacob Fordham, Mary Milner, Maureen Minson, Nathaniel Crippes, Rachel Clayson.

LGBTQ

SB 262, “Employment and Housing Antidiscrimination Amendments,” addresses discrimination on the basis of sexual orientation and gender identity by modifying the Utah Antidiscrimination and Utah Fair Housing Act. This bill would provide much-needed anti-discrimination protection to members of the LGBTQ community and recognize the need to treat all Utahns fairly and equally. The ACLU was thrilled to watch SB 262 pass out of a senate subcommittee for the first time in the many years since the bill has been introduced! Unfortunately, the bill failed to receive a floor vote in either chamber and died in the Senate.

REPRODUCTIVE FREEDOM

SB 60, “Abortion Statistics and Reporting Requirements,” requires the Utah Department of Health to compile statistics about women who seek abortions, including the race of women seeking abortions, stage of pregnancy, and reasons for seeking an abortion. We fear this bill sets the stage for future legislative efforts to restrict reproductive freedoms.



Unfortunately, SB 60 was signed into law after passing in both the House and Senate with little opposition.

PARTICIPATORY DEMOCRACY/VOTING RIGHTS

HB 91, “Voter Registration – Election Day Voter Registration,” is a version of Election Day Registration, whereby voters register and vote on election day. The bill allows provisional ballots to be counted even for voters who were not previously registered. The ACLU strongly supports this bill because it would serve as a failsafe for voters, likely increase voter participation and make the fundamental right to vote easier to exercise. Although the bill passed with strong support in the House, the Senate proved a tougher battle. The bill ultimately failed to pass on the final vote in the Senate on the last night of the session.

Get the

FULL REPORT

online at www.acluutah.org/2013-Legislative-report.html

We Walked With Pride For Equality!



Above: ACLU of Utah members, supporters, and volunteers march towards equality in downtown Salt Lake City in the 2013 annual Utah Pride Parade!

The 2013 Annual Utah Pride Parade and Festival created invigorating energy and excitement for equality and pride! The ACLU of Utah enjoyed the support of almost 50 people who walked with us, including members, volunteers, and friends who marched through the streets of downtown Salt Lake City to celebrate LGBTQ rights and solidarity. The group Mormons for Equality also marched with

us to show their support for national marriage equality. We were equally thrilled to receive a warm welcome from the crowds of parade watchers who praised our work for the LGBTQ community in Salt Lake by cheering, clapping, and whistling. Together, we marched towards equality. We thank you for your support! Find the link to many more exciting photos at www.acluutah.org/prideparade2013.html



Top: ACLU of Utah Development Assistant Lauren Burns, ACLU of Utah Paralegal Intern Morgan Matthews, and ACLU of Utah staff attorney Leah Farrell get ready to walk and show their support for the mantra, “You Have the Right to Love!” Bottom: Mormons for Equality march with us in the Pride Parade to show their support for marriage equality!

IN THE COURTS

Federal Lawsuit Filed Over Use Of Tear Gas In Utah State Prison’s Mental Health Wing

Redmond v. Bigelow

The ACLU of Utah has filed suit in Federal Court against the Utah State Prison for violating the civil rights of its mentally ill prisoners. In August 2011, prison officials at the Olympus branch used CR gas, commonly known as tear gas, to subdue a single, unarmed prisoner who refused to return to his cell. Once released, the tear gas then spread through an entire wing of the prison via the ventilation system, harming 150 prisoners who were on lockdown in their cells. These cells had no windows or bars. Inmates reported feeling intense burning in their eyes, noses, throats, and chests. Additionally, prison officials failed to respond to emergency calls from the prisoners for about 30 minutes. Almost 60 prisoners who were exposed to the gas were reportedly never evacuated from their cells. Several prisoners reported feeling like they were “going to die.”

The Olympus branch of the prison houses individuals who are particularly vulnerable. Many suffer from mental illnesses like schizophrenia, PTSD, and anxiety disorders, and others need acute medical attention like regular kidney dialysis. During the incident an officer mocked several prisoners when they complained about injuries from the tear gas and made light of their exposure to the chemical.

Prison officials have provided an inadequate explanation as to why they felt it was necessary to use a harmful chemical agent in response to one prisoner, stating they wanted to avoid physical contact between the guard and inmate. Further, officials have not guaranteed they will institute more sensible and limited policies governing the use of tear gas.

We must remember that the Constitution protects the rights of all, and prisoners are no exception. The ACLU of Utah is particularly disturbed by the prison’s lack of protocol for the use of dangerous chemical agents and its negligent response to prisoners’ calls for help during this incident.

More about this case can be found at www.acluutah.org/Redmond.html



Unconstitutional Weber County Gang Injunction Argued Before Utah Supreme Court

Weber County v. Ogden Trece



The ACLU of Utah team with cooperating attorney (and Board member), David Reymann and Board member Representative Rebecca Chavez- Houck stand outside the Utah Supreme Court after the hearing for an appeal of *Weber County v. Ogden Trece*. In cooperation with law firms Parr Brown Gee & Loveless and Allen, Richards & Pace, the ACLU of Utah is challenging Weber County’s gang injunction that applies to over 300 individuals in Ogden and restricts these individuals’ constitutional rights of association and due process.

On June 4, 2013, the ACLU of Utah and cooperating attorney David Reymann of the law firm Parr Brown Gee & Loveless, along with other counsel, argued before the Utah Supreme Court in an appeal of the Second Judicial District Court of Weber County’s approval of a “gang injunction” that applies to over three hundred alleged gang members of the “Ogden Trece” gang. The ACLU of Utah represents people that the Ogden police have accused of gang membership and claim are subject to the injunction. David Reymann presented the arguments and gave an excellent and well-prepared presentation.

David first argued that the process of entering the injunction was flawed from the outset. David pointed out that Utah has specific rules for giving notice of a lawsuit to an unincorporated association, but that Weber County had not even attempted to properly follow those rules in attempting to serve the Ogden Trece. Instead, David contended, Weber County and the District Court followed California standards, which differ significantly from Utah’s. Since Weber County had not properly given notice of the suit, David concluded, it should not have been allowed to proceed in the first place and the injunction should not be enforced.

David further argued that the injunction violates the Constitution because it prevents alleged gang members from participating in a host of constitutionally protected activities in practically the entire city of Ogden. For example, alleged members are prohibited from: publicly associating with other alleged gang members (including co-workers, friends, and even family); engaging in peaceful protests in public places; traveling together to vote; and even appearing in court together to challenge

the injunction. The injunction also imposes a daily 11 pm to 5 am curfew. The alleged members are also permanently prohibited from possessing legal firearms; drinking or merely being in the presence of alcohol, both on public and private property; and engaging in any conduct that police consider “annoying.” Strikingly, police officers have complete authority to determine what counts as “annoying” conduct.

David further argued that the injunction contains “no meaningful constraints on police activity” in determining who is a gang member and can be subjected to the injunction’s broad restrictions. David pointed out that the injunction gives police the “broadest authority” to determine which behaviors violate the terms of the injunction.

David pointed out that, to comport with the Constitution, the injunction would need to be “tailored as precisely as possible” to serve compelling government interests. David asserted that Weber County made no attempt to tailor the injunction to limit the conduct that the police considered disruptive to the Ogden community, which was ostensibly the primary goal of the injunction in the first place.

The Utah Supreme Court will release its ruling after deliberating on the June 4 arguments.

The gang injunction represents a dramatic case of police overreach where the guarantees of the Constitution are left behind.

More about this case can be found at www.acluutah.org/OgdenTrece.html

Film Screening & Panel Discussion Commemorates 50th Anniversary Of Right To An Attorney

Over 50 people attended a free screening and panel discussion of the film *Gideon’s Army* at the Salt Lake City Downtown Public Library on April 1, sponsored by the ACLU of Utah and the Utah Minority Bar Association.

The event kicked off with a screening *Gideon’s Army*, HBO’s award winning documentary that follows three public defenders in the American South as they work to defend their indigent clients. This glimpse into the lives of public defenders — their work and the challenges they face in doing it — provided a personal and compelling context for the broader issues facing indigent defense in this country.

The film was a terrific conversation starter for the panel discussion, which focused on Utah’s indigent defense system. The panel discussion was moderated by Jessie Nix, President Elect of the Utah Minority Bar Association and a local public defender. Panel member Judge John Baxter of the Salt Lake Justice Court talked about his everyday experiences with indigent defendants, and the formal process under Utah law to provide indigent defense. Cliff Venable, another panel member, talked about his perspective as a public defender in the Salt Lake County Office. He emphasized the collegiality among public defenders in that office. Also on the panel was Professor Emily Chiang of the University of Utah Law School, who talked about the common issues and problems facing public defenders across the country. Finally, John Mejia, Legal Director of the ACLU of Utah, discussed the concerns the ACLU of Utah has about the provision of indigent defense in Utah, as laid out in our 2011 *Failing Gideon* report.

During the question and answer session, audience members asked thoughtful questions and raised important issues. Several attorneys working as public defenders attended, and were given a well-deserved round of applause for doing the hard work that they do. Overall, the event was a big success in its goal of raising awareness of this important topic, and we’d like to thank everyone who attended and who helped us out.



Above: Panelists (from left) included: Emily Chiang (S.J. Quinney School of Law), John Mejia (ACLU of Utah), Judge John Baxter (Salt Lake Justice Court), Cliff Venable (Salt Lake Legal Defenders Association), and moderator Jesse Nix (Utah Minority Bar Association). Below: Salt Lake Legal Defender Ralph Dellapiana directs a question to the panel.



More about our work to reform the Utah Criminal Justice system can be found at www.acluutah.org/justice.shtml

Students, Know Your Rights!

The ACLU of Utah and the University of Utah’s S.J. Quinney College of Law have produced a brochure for K-12 students advising them of their civil liberties and constitutional rights regarding suspension and expulsion policies at school. Students, don’t miss this opportunity to know your rights!

Download the brochure at www.acluutah.org/Student-Rights-Disciplin-Brochure.pdf



Police & Military Technology



American neighborhoods are increasingly being policed by cops armed with the weapons and tactics of war. It is time to understand the true scope of the militarization of policing in America and the impact it is having in our neighborhoods. The ACLU of Utah and 22 other ACLU affiliates across the country simultaneously filed over 255 public records requests to determine the extent to which local police departments are using federally subsidized military technology and tactics that are traditionally used overseas. The results of these requests are currently being compiled.

More information can be found at www.acluutah.org/Police-Militarization.html

Get Involved!

Sign up for local and national ACLU email notices. Get important updates on our work and action alerts.



www.acluutah.org

Marriage Equality, Gene Patents, and Privacy



Edie Windsor and Thea Spyer

The Hidden Costs of the Defense of Marriage Act (Literally) FOURTEENTH AMENDMENT - DOMA

A challenge to the Federal Defense of Marriage Act, or DOMA, which mandates the federal government recognize only those marriages between opposite-sex partners, was heard before the Supreme Court in March. Our ACLU plaintiff Edie Windsor argues that DOMA violates the Constitution’s guarantee of equal protection by treating same-sex couples differently than heterosexual couples.

When Edie’s wife and partner of 40 years, Thea Spyer, passed away from multiple sclerosis in 2007, Edie was shocked to learn she was ordered to pay federal estate taxes on the property she had inherited. Under federal tax code, spouses who inherit property in marriage do not pay estate taxes, but DOMA grants federal tax benefits only to heterosexually married couples. Although Edie’s marriage to her wife was legally recognized in the state of New

York, DOMA prevents the federal government from recognizing marriages between same-sex partners, even in states where same-sex marriage is legal. For same-sex spouses, then, the government denies the tax benefits that marriage typically provides. As a result, Edie was forced to pay estate taxes on her inheritance even though Edie’s marriage was legally recognized in New York, where Edie and her Thea lived. Along with the lawsuit challenging DOMA, Edie is also suing the federal government for a refund of the estate taxes she paid.

The case of Edie and her tax law nightmare represents just one of many examples of discrimination and disparate treatment towards same-sex couples by the federal government.

The ACLU of Utah wholeheartedly supports the repeal of DOMA, and is counting down the days until the Supreme Court reaches its decision this month. Good luck, Edie!

Find out more about this case at www.aclu.org/lgbt-rights/windsor-v-united-states-thea-edie-doma



Your Phone: Are You Communicating with the Government?

PRIVACY - CELL PHONE TRACKING

The ACLU of Utah is very disturbed to learn that an alarming number of law enforcement agencies across the country track cell phones without following procedures of due process. The national ACLU issued a request for public records from hundreds of agencies, and of the 200 agencies that responded, many admit they perform intrusive searches every day, including: tracking cell phones; matching cell phone numbers to all phones that are in particular locations at particular times – also known as “tower dumping”; and even mining GPS location data, which is much more accurate at pinpointing location than cell tower data. Many agencies perform these invasive searches without ever obtaining warrants or even having probable cause.

In a Supreme Court case at the beginning of this year, *U.S. v. Jones* ruled that tracking individuals’ locations over long periods of time constitutes a search under the Fourth Amendment. The Constitution delineates clear limitations on the government’s ability to perform searches, particularly when agencies lack the warrants or probable cause necessary to perform a search.

The bipartisan Geolocation Privacy and Surveillance (GPS) Act would seek to limit law enforcement agencies’ power to perform searches by requiring warrants and mandating that customers of private telecommunications companies consent to sharing their personal location data before any cell phone is ever tracked. Legislation like the GPS Act is a step in the right direction for protecting privacy, and the ACLU is encouraged that at least 11 states are currently considering bills that would limit location tracking.

However, even bills like the GPS Act still may not be enough to protect our privacy. Just days ago, The Guardian discovered that the U.S. government has been tracking the phone calls of every customer of Verizon Business Network for the last several weeks. Verizon is one of the largest telecommunications and internet service providers in the country, and as such, millions of Americans may be victims of spying. Unfortunately, the extent of the government’s spying on Americans has yet to be uncovered.

The ACLU of Utah supports the GPS Act and efforts like it, and will continue to protest against invasive and ever more sophisticated violations of privacy. However, we need your outrage and activism to help us limit government invasions of our privacy.

Visit the National ACLU’s website and join their online emergency action campaign to stop government spying on communications at www.aclu.org/



Can the Genes Inside Your Body be Owned? FIRST AMENDMENT - GENE PATENTS

The ACLU, the Public Patent Foundation, and thousands of activists, patients, and scientists continue to wait for the Supreme Court’s decision on whether two genes linked with breast and ovarian cancer, BRCA1 and BRCA2, can sustain patents after the Salt Lake City genetic research company Myriad first patented the genes in the 1990s.

The court’s decision will have profound implications for the First Amendment and freedom of information, scientific and medical research, and women’s health. If Myriad’s patent is upheld, the company will gain

monopolistic control over future research on the BRCA1 and BRCA2 genes, potentially limiting development for new treatments. In addition, women seeking breast cancer screenings will be forced to use Myriad’s services: Myriad’s screening currently costs between \$3,000-\$4,000, an amount that clearly remains cost-prohibitive for millions of women.

The ACLU of Utah strongly opposes the efforts of private companies to patent genes and hopes the Supreme Court will deny patents that grant private businesses intellectual property control over parts of the human body.

More information about this case can be found at www.aclu.org/fight-take-back-our-genes

ACLU of Utah
Liberty Reporter



355 North 300 West
Salt Lake City, UT 84103

NON-PROFIT
U.S. POSTAGE
PAID
Permit No. 2578
Salt Lake City, UT



2013 Membership Meeting and Open House

Tuesday, August 6 • 5:30 - 7:30 PM

At the ACLU of Utah office (355 N. 300 W. in SLC)

Free and open to all ACLU members!

If you aren't a member you can become one before the meeting.

- Enjoy complimentary snacks and drinks as you chat with ACLU of Utah staff, board members, and other like-minded civil libertarians.
- Learn about our organizational health, priorities, strategies, and legal and educational projects for the year ahead.
- Bring your passion and enthusiasm for protecting civil liberties in Utah and find out how you can become more engaged.

WE HOPE TO SEE YOU!

To RSVP, please contact Reinard Knutsen
(801) 521-9862 ext. 101 or aclu@acluutah.org.

Standing Up For Freedom In Utah Since 1958