

LET THE PEOPLE VOTE!

FLECTION MATL

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2020 Election Special Edition



PERSPECTIVES

Tell us about the first election you could vote in?



Brittney Nystrom, Executive Director

"I was in college studying abroad when I first voted in a Presidential election. Foreshadowing the current debate around voting by mail, I participated via absentee ballot. I still remember being amazed when the ballot reached the small village in the distant country where I lived. Its arrival represented an inclusive process where my vote, and that of others who couldn't vote in person, mattered. That inclusivity is now in serious doubt. In some states, officials are undercutting fair elections by challenging the legitimacy of ballots and closing in-person voting locations. Here in Utah, the ACLU is going all-in to ensure that all eligible voters are welcomed and all votes are counted."

Which historic election would you like to cast a vote in?



Roni Jo Draper, Board President

"I am still waiting, because it would be when we elect someone other than a man to lead our country. I hope that this election is in our near future. I know that this goal is possible if we, the people, continue to engage in the process of speaking out and turning up. As I write these words, the nation is learning that the officers who killed Breonna Taylor will not be prosecuted. I am enraged. And I am moved to create spaces for Black, Indigenous, and women, trans, and non-binary bodies of color that are healthy, educative, safe, and conducive to life. I am moved to work harder for justice, peace, and hope."

CALLING ALL ACLU MEMBERS! Vote in the annual ACLU of Utah Board Elections



Board members are volunteers and receive no financial renumeration for their service. Candidates are nominated by the ACLU of Utah Governance Committee. Board terms are three years and Board Members typically serve two terms. Voting closes November 30.

You may find the 2020 Board Ballot that includes biographical information about the candidates and instructions on voting online at: www.acluutah.org/board-elections

Candidates for the 2021-2023 term are: Amir Jackson, Dustin Jansen, Brianne Kramer, Enrique Romo, and Swati Sharma.



Want less mail? Scan this QR code with a smartphone to opt out of future printed copies of the ACLU of Utah newsmagazine.

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 Mission is to defend and promote the fundamental principles and values embodied in the Bill of Rights and the U.S. Constitution, including the freedom of speech and religion, and the right to privacy, equality, and due process for all Utahns.

Staff

Brittney Nystrom, Executive Director Marina Baginsky Lowe, Legislative & Policy Counsel John Mejia, Legal Director Jessica Andrews, Director of Finance & Administration Erin Hurtado, Development Director Hannah Nerone, Development & Finance Coordinator Angelica Guzman, Office Manager Leah Farrell, Senior Staff Attorney Jason Groth, Smart Justice Attorney Valentina De Fex, Immigrants' Rights Legal Fellow Sara Wolovick, Equal Justice Works Fellow Margie Nash, Paralegal Caroline Emmitt, Intake Coordinator Nikila Venugopal, Voting Rights Manager Sydni Makemo, Southern Utah Community Outreach Coordinator Malyssa Egge, San Juan County Voter Protection Organizer Jason Stevenson, Communications Manager

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Claire Smith, Jacob Stock, Gardner Lange, Tamara Gilbert, Alex Marticorena, Nick Conte, Kimber Parry, Jessica Gutierrez, Lauren Brown-Hulme, Jen Hyde, Elisabeth Luntz, Lauren Harvey, Joseline Sanchez, Cash Mendenhall, Maura Cheney, Chloe Lovik, London Reynolds

POLICY REPORT Notes from the frontlines of making change

IMMIGRANTS' RIGHTS

Our new approach and tactics are showing how immigration reform can be a local issue. First, we published a preview of a report detailing how Utah law enforcement agencies, including Salt Lake County's Jail, cooperate with ICE and use county resources to carry out federal immigration enforcement actions. Second, noting that ICE continues to detain, hold, and transfer Utahns between jails and facilities that have COVID-19 outbreaks is cruel and inhumane, we called on the ICE regional office and U.S. Attorney to stop the unnecessary detention and transfer of individuals suspected of violating immigration law. Third, we have amplified our advocacy to ensure language access during the pandemic. We urged the Bear River Health Department to translate public health announcements into Spanish and other commonly spoken languages as they addressed a deadly virus outbreak at a Cache County meatpacking plant.

SMART JUSTICE

Our next goal is to pass legislation that stops the revolving door at Utah jails and prisons driven by technical violations of parole and probation. This is a serious problem in Utah. In 2017, 3,035 people in Utah returned to prison for supervision violations, making up 79% of all new prison admissions. Of those, 52% were for technical violations. Our proposed legislation would end the practice of sending people back to jail or prison for minor, non-criminal, technical violations of probation and parole.

JAILS & PRISONS

After filing a Petition for Extraordinary Relief with the Utah Supreme Court in April to demand jails and prisons release incarcerated individuals vulnerable to the COVID-19 pandemic, we withdrew the lawsuit against the counties in May after many jails made substantial progress.

We continue to promote aggressive decarceration efforts, while monitoring periodic virus outbreaks in Utah's jails and prisons. We are also collecting facts and statements to use in potential litigation and engaging in public advocacy and education.

Legal Docket Update Î

Our legal team is working overtime to defend your rights in state and federal courts



Planned Parenthood Association of Utah (PPAU) v. Miner

Issue: Reproductive rights (14th Amendment) Filed: April 2019

ACLU lead: Leah Farrell, Senior Staff Attorney **Co-counsel:** Planned Parenthood

Background: In late 2019, our federal lawsuit against Utah's 18-week abortion ban on behalf of Planned Parenthood of Utah went on hold while the U.S. Supreme Court considered if providers could be blocked from challenging abortion restrictions in court. In June, the Court rejected that argument, allowing our lawsuit to resume.

Update: We are deposing (interviewing) expert witnesses hired by the state of Utah, which is defending the abortion ban.

Marquez Yañez v. Burdine, et al

Issue: Unreasonable and unlawful searches and seizures (4th Amendment) Filed: January 2020 ACLU lead: John Mejia, Legal Director Co-counsel: Covington & Burling, LLP, and Crowell & Moring LLP

Background: We sued on behalf of the Yañez family after a dozen, heavily-armed Adult Probation & Parole agents violently entered their home looking for someone who was not there. The family alleged the agents' actions violated their rights to be free from unreasonable and unlawful searches and seizures and excessive force.

Update: In September 2020, the family reached a settlement with the Defendants where the state agreed to pay a total of \$137,500 and require increased training for agents.

Disability Law Center v. Davis County Issue: Transparency of Jail Standards and Records (1st and 8th Amendments) Filed: May 2018

ACLU lead: John Mejia, Legal Director **Co-counsel:** Parr, Brown, Gee & Loveless, P.C. Background: In response to a spike of troubling deaths in jails, we made public records requests to Davis County for their jail standards and audits. When the county refused to provide them, we sued in state court. Last fall, the court ruled that the audits and part of the jail standards should be released, but has yet to decide whether copyright protects certain aspects of the standards from public release. Update: Trial date scheduled for early 2021.

Miller v. Murray City

Issue: Racial profiling (4th and 14th Amendments) Filed: May 2020 ACLU lead: Jason Groth, Smart Justice Attorney Co-counsel: Holland & Hart Background: We sued Murray Police Dept. on behalf of Donna Miller, a 59-year-old Black woman and nursing student, alleging that racial profiling was behind a traffic stop and charge of driving under the influence of an illegal substance. After being stopped in her car, Ms. Miller passed four sobriety tests, two breathalyzer exams, and a battery of drug tests. Nonetheless, she was detained, handcuffed, and charged with a DUI, all based on the arresting officer's "sixth sense" that she "uses cannabis regularly."

Update: Fact discovery is currently underway. Continued on page 6



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Donna Miller says she was targeted by a Murray police officer for her race after he pulled her over and arrested her on Aug. 21, 2018.

Woman sues Murray police alleging bias in traffic stop

City calls officer's response "objectively reasonable" and says the plaintiff's race had nothing to do with the arrest.

Salt Lake Tribune, June 30, 2020

2020 ELECTION SPECIAL

How We Are Protecting Your Right to Vote

From new hires and volunteers, to expanded digital outreach campaigns, our team is ready for this election

This election feels more important than any other, and it certainly is much different. Because of the uncertainties created by the pandemic and the threat of misinformation about mail-in ballots, our team is ramping up our efforts to protect your right to vote no matter where you live in Utah.

Voter Education

The adage "a lie travels around the globe while the truth is putting on its shoes" is never more evident than during an election. To keep Utah voters informed about registration deadlines, mail-in ballots, and in-person voting, we are funding digital outreach campaigns designed to reach tens of thousands of people with timely and accurate information. Building on the success of our proven "No Stamp, No Problem" campaign, we are helping voters navigate how to check their registration, where to locate early and in-person voting, and how to ensure their mail-in ballots are counted. To help Utah residents tell fact from fiction, we created a "Fact-checked by the ACLU" badge to identify accurate information about the election. We are also the only Utah organization to partner with Election Protection, a national, nonpartisan coalition formed to ensure that all voters can participate in the political process. Do your part by entering Election Protection's hotline, 1-866-OUR-VOTE (1-866-687-8683), into your phone and passing it on to your family and friends. This number is staffed 24/7 with trained legal assistors to answer any voting questions and handle elections issues.

Focus on San Juan County



In September we hired Malyssa Egge as the San Juan County Voter Protection Organizer. A resident of Bluff, Utah, Malyssa will help to protect the rights of Indigenous and rural voters in south-eastern Utah. Since settling our 2016

Malyssa Egge

Save the Election Protection Hotline in your phone: 1-866-OUR VOTE (866-687-8683)

voting rights lawsuit against San Juan County, we have been engaged in monitoring the implementation of vital reforms like language assistance, ballot translation, and expanded in-person voting for Navajo Nation residents. This work became even more important when our poll monitors uncovered allegations of electioneering by San Juan County officials during the 2019 election. Malyssa's on-the-ground organizing will be a critical piece of monitoring the accessibility of the 2020 election in San Juan County. As a regional coordinator, she will help us keep San Juan County at the forefront of our larger 2020 ACLU of Utah statewide Election Protection program.

Election Protection Monitors

Voter suppression can occur at any point in the election cycle: from blocking voter registration, to intimidating people trying to vote, to

2020 Voting Checklist

Make your vote count by following these steps:

- [] I checked that I am registered to vote at my current address at vote.utah.gov
- [] I researched my local races and ballot initiatives using a reliable source
- [] I encouraged my friends to register to vote and mail back or drop off their ballots
- [] I saved the Election Protection Hotline into my phone 1-866-OUR-VOTE (866-687-8683)
- [] I received my mail-in ballot in mid-October or I checked my county clerk's website to find a local in-person vote center or early voting location
- [] If I didn't receive a mail-in ballot, I called my county clerk's office to request a new one (www.elections.utah.gov/electionresources/county-clerks)
- [] I have identification like a Utah Driver's License or state-issued ID if I plan to vote in person (www.voteinfo.utah.gov/voterid-requirements)
- [] I returned my mail-in ballot by putting it in the mail (by November 2) or an official dropbox (by November 3, Election Day)
- [] I tracked my ballot by visiting vote.utah. gov to make sure it was counted



posting false information on social media. In 2020, the ACLU of Utah is training dozens of Election Protection volunteers to safeguard all aspects of the electoral process in Utah. From monitoring polling locations, to watching social media for misleading information, to delivering yard-signs advertising the Election Protection hotline-we are looking for volunteers to amplify our efforts during the election. This will be the first year the ACLU of Utah has deployed Poll Monitors in seven counties, including Garfield, San Juan, Washington, Cache, Duchesne and Uintah, as well as trained volunteers to monitor social media posts. If you are interested in serving as an Election Protection Volunteer, learn more and sign up at www.acluutah.org/votingvolunteer



Voting Rights Manager Nikila Venugopal and volunteer John Soltis monitor polling locations in Weber County in March 2020.

Get accurate election info and advice at our new website: www.letutahvote.org

2020 ELECTION SPECIAL

Now You Can Convince Anyone to Vote This Year

Use these cards to respond to 9 of the most common excuses for not voting in Utah

Official ACLU Persuasion Card



"I'm too busy to vote"

 Offer to read through your ballots together during a video call on FaceTime or Zoom.

Sometimes this means they don't know how to vote for certain offices or issues. Ask them, and direct them to an issue or candidate guide.

■ No stamp, no problem. Remind them that the postal service will deliver unstamped ballots and charge the county for the missing postage.

Explain that voting by mail in Utah will be much faster (and safer) than voting in-person this year. ACLU

Official ACLU Persuasion Card



"All politicians are bad"

Tell them voting is like shopping for avocados... sometimes none of them are perfect, but you finally settle on one that feels the best.

Explain that corrupt politicians win more often when fewer people vote.

Ask them to name a public figure they admire and talk about what makes them worthy of respect. Connect those traits to the current election.

Tell them you'll remind them they didn't vote every time they complain to you for the next four years.

Official ACLU Persuasion Card

I just moved to Utah"

Inform them that the only residency requirement to register to vote in Utah is to live in the state for at least 30 days before Election Day. They also don't need a Utah driver's license to register or vote. ACLU

Official ACLU Persuasion Card

"Not sure I'm registered"

Ask if they have received a mail-in ballot and voted in Utah before.

Find out if they still live at the same address since the last time they voted.

■ If they anwered "No" to either of the above questions, help them check their status or register to vote securely at vote.utah.gov

If the registration deadline (October 23) has passed, they can still register AND vote in-person on Election Day with a provisional ballot.

ACLU

Official ACLU Persuasion Card

"My vote doesn't count"

Tell them that's what the Russian bots want them to believe, Comrade.

Mention that a 2016 state legislative race in Sandy was decided by three votes out of 17,000 cast.

Bring up an issue they care about like climate change, immigration, or drug legalization, and connect it to the current election.

Explain that their vote counts even less if they don't cast it.

Talk about someone you know who isn't a U.S. Citizen and wishes they could vote this year. ACLU

Official ACLU Persuasion Card

IIIII "I have a criminal record"

Explain that past felony and misdemeanor convictions don't limit their right to vote in Utah. Neither do overdue child support payments and outstanding traffic tickets or fines.

ACLU

Official ACLU Persuasion Card



Explain that Utah has been voting by mail for the last 10 years with few problems. It works in Utah.

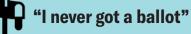
Encourage them to complete and mail back their ballot at least a week before Election Day (November 3).

Help them find the early voting location(s) in their county and double-check the open times.

Suggest they drop their completed ballot in an official ballot drop box and help them find the nearest one by checking their county clerk's website.

ACLU

Official ACLU Persuasion Card



Check the date. Ballots in Utah

were mailed the week of October 13. Tell them to call their county clerk

to request a new ballot as soon as possible.

- If the election is too soon to request a new ballot, tell them they can vote in-person on Election Day and help them find an in-person voting location in their county.
- Explain that eligible voters can cast a provisional ballot in Utah by voting in-person on Election Day.

ACLU

Official ACLU Persuasion Card



You don't need a driver's license from Utah or any state (though it's the easiest). You can also bring two forms of non-photo ID with your name and address (e.g., a recent utility bill or bank statement). ACLU

Our Priorities for Police Reform

We believe the window for creating lasting change is now

As the marches and rallies for police reform continue, the ACLU of Utah is joining the policy discussions heating up in city council chambers, town hall meetings, and legislative hearings. So far, the Utah Legislature banned chokehold restraints and the Salt Lake City Council restricted purchases of military-surplus equipment for law enforcement. But those first measures should not be the last word. Much more needs to be done to change use of force rules, reform training, and bolster accountability. Current police policies fail the public by allowing law enforcement to justify an overuse of deadly force, which disproportionately happens against Black, Brown, and Indigenous people in Utah. In 2018, 19 people died from police shootings in Utah, and 13 people have already died this year. Until we establish legal and policy systems that encourage police accountability, we cannot have equal justice under the law.

Listed below are **17 priority areas** for police reform identified by the ACLU of Utah and shared by many of our allies in this important work.

ACLU of Utah Police Reform Index

- 1. Reform use of force rules when a suspect is fleeing or a threat is abated
- 2. Collect consistent data on race and ethnicity for all use of force incidents
- 3. Prohibit the use of tear gas during protests and marches
- 4. Limit no-knock and quick-knock warrants
- 5. Require an oral warning prior to the use of deadly force
- Reinvest public safety budgets to make de-escalation training a mandatory and repeated practice
- 7. Standardize body-worn camera use policies for all police departments
- 8. Establish statewide protocol to release body camera footage within a certain timeframe for all Officer-Involved Critical Incidents (OICI)
- 9. Require agencies to file public reports with a central POST (Peace Officers Standards and Training) database if officers under investigation resign first
- 10. Remove police officers from public schools
- 11. Prohibit deadly force in self-harm situations
- 12. Require implicit bias training for all supervisory and administrative staff
- 13. Require implicit bias and restorative justice training for all SROs (School Resource Officers)
- 14. Prohibit "kettling" or containment zones for mass arrests during protests or marches
- 15. Establish definitions of "necessary" and "imminent" in use of force situations
- 16. Establish local control for civilian review boards
- 17. Create a framework to expand non-police emergency first responders for non-serious incidents

LEGAL, continued from page 3

Ramirez v. Reddish

Issue: Illegal entry (4th Amendment) **Filed:** February 2018

ACLU lead: John Mejia, Legal Director Co-counsel: Covington & Burling, LLP Background: We sued members of a joint state-federal task force (which included U.S. Marshals, an ICE agent, and local law enforcement officers) and the United States on behalf of the Ramirez family after agents carried out back-to-back home raids and engaged in other behavior that we alleged were grave violations of the family's rights. **Update:** The Court granted summary judgment for the Defendants on several claims, but allowed the illegal entry claim to proceed. The court is considering additional motions.

McCubbin v. Weber County

Issue: Gang injunction (1st and 14th Amendments) Filed: 2015 ACLU lead: John Mejia, Legal Director Co-counsel: Richards & Brown P.C. Background: We sued Weber County

FARRELL, continued from page 7

equality ruling to overturn Utah's adoption laws that barred same-sex couples from automatically adding both spouses to a child's birth certificate. She remembers the joy this decision brought to Angie and Kami Roe as they sought to have their daughter legally recognized as the child of both of them, and how it would help thousands of same-sex couples going forward.

Leah didn't win the last case on her list, but she said it is just as important as the ones she did. In Redmond v. Utah State Prison, the ACLU of Utah filed a class action lawsuit on behalf of a group of prisoners who were exposed to tear gas that entered the facility's ventilation system. "Although we didn't achieve a clear victory in the court, we did get the prison to validate their experience and change their policies," she said. "There are so many barriers to representing incarcerated people, but it's often some of our best and most important work," she added, recalling how the prisoners handwrote a letter to the ACLU asking for help. Leah's impact at the ACLU of Utah extends beyond her legal work to include the careers of the dozens of law school interns she hired and mentored each summer. She also strengthened and expanded the affiliate's judicial bypass project, which provides free legal help to minors seeking abortion healthcare.

Most of all, however, her friends and colleagues at the ACLU of Utah will miss Leah's unwavering friendliness, wisdom, and calm approach to the thorniest issues. We wish her well over the next ten years and beyond.

and others on behalf of plaintiffs Leland McCubbin and Daniel Lucero, alleging that the County violated plaintiffs' rights by serving plaintiffs with a so-called "gang injunction" that immediately criminalized many protected activities. The Utah Supreme Court ruled that the County violated plaintiffs' due process rights, and allowed other claims to go to trial. **Update:** Several motions by plaintiffs need to be resolved before the case can go to trial.

> Track current lawsuits on our website: www.acluutah.org/legal-work

Meet Caroline Emmitt, Intake Coordinator

With an advanced degree in social work, Caroline Emmitt is ready to assist Utahns who seek help from the ACLU of Utah

Caroline Emmitt joined the ACLU of Utah as the affiliate's 16th staff member and new Intake Coordinator in August 2020. She is returning to Utah after earning a Master's degree in Social Work from Columbia University and working for several NYCbased nonprofit agencies, including a stint doing community organizing at The Legal Aid Society.

Caroline explains that she decided to pursue an advanced degree in social work because she has a passion for helping people and fighting for social justice. Role models she admires include Rep. Alexandria Ocasio-Cortez, the late Justice Ruth Bader Ginsberg, and Angela Davis. But the people who have been most influential to her have been the mentors she has worked alongside as an organizer in New York City and as a staff member at a small rural health clinic in Missouri, where she also earned a Bachelor of Social Work degree at the University of Missouri. "I watched my colleagues show up for their communities every day with passion, conviction, and energy. They taught me to look at difficult issues and think, 'I can do something about this.""



Caroline Emmitt, Intake Coordinator

Caroline is glad to be back in her native Utah and working at a nonprofit whose mission is aligned with her own personal aspirations. "Utah often makes national headlines for its glaring gender equity issues, staggering rates of LBGTQ+ discrimination, and disparities in reproductive healthcare and pay-equity," she explained. "There is so much work to be done to create compassionate and competent policy solutions." Because the ACLU of Utah can't personally assist everyone who contacts us seeking help, we appreciate how Caroline's social work

training and diverse experience at serviceoriented nonprofits will enable our team do more to help those in need.

Saying Goodbye to Leah

As she departs for New York, Senior Staff Attorney Leah Farrell recalls some of her most memorable ACLU of Utah cases

For the last nine years, Leah Farrell has guided numerous legal challenges to success as the ACLU of Utah's unflappable Staff Attorney and Senior Staff Attorney. But her connection to our affiliate goes back two decades more to when, as a high school senior, she became a plaintiff in the famous East High GSA case challenging the Salt Lake City School District's total ban on student clubs to stop a gay-straight alliance from meeting.

Leah was attending college in New York City when that case ended two years later with the school board reversing the ban and allowing all student clubs to meet. But the case likely served as an introduction to the lengthy timeframe that lawsuits would take in her future legal career.

This month, Leah is leaving the ACLU of Utah to return to New York, which she finds just as exciting as she did as a college student. "I'm not technically taking a sabbatical," she explained. "But I'm leaving Utah to figure out what the next ten years of my life should



From the State Capitol, to the courtroom, to San Juan County, Leah's positive impact has been felt across Utah.

be like." She plans to stay active in the legal field, whether through more litigation, or by exploring public policy.

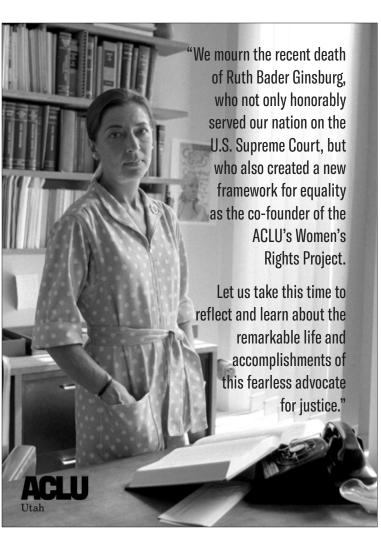
Leah joined the ACLU of Utah in August 2011 as the affiliate's first staff attorney and seventh staff member after graduating from the University of Texas School of Law in Austin. Raised in Salt Lake City, Leah was astounded she could land a public interest job in her hometown.

As a full-time litigator at the ACLU, Leah led several high-profile legal efforts, starting with a lawsuit challenging a controversial police sweep targeting students of color at West High School, her alma mater. That case, Winston v. Salt Lake City Police Department, made a big impression on her. "The Winston family were these amazing plaintiffs who introduced me to the racial inequities that were a part of the city I grew up in, but never had to face myself," she explained. "Even though I had sued my school for discrimination before, here I was doing it again because the struggle always continues."

A second case she recalls is Roe v. Patton, in which Leah and attorneys from the National ACLU's LGBT Project successfully applied the U.S. Supreme Court's 2015 marriage Continued on page 6



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SAVE THE DATE ACLU of Utah 2020 Virtual Members Meeting

Tuesday, November 10, 2020 12:00 - 1:00 p.m.

Watch your email and the ACLU of Utah website for registration and login info

Questions: Contact Hannah Nerone at hnerone@acluutah.org

