

LIBERTY REPORTER

Fall 2018

ARE YOU READY TO VOTE?

SPECIAL REPORT

We've Expanded
to Southern Utah

Vote Like Your Rights
Depend On It (They Do)

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Why We Support
Better Boundaries

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20 Years Later: Utah's Landmark East High GSA Lawsuit

ACLU 60
YEARS

Utah

The Director's Chair



Brittney Nystrom, Executive Director

What is the biggest hurdle to more people voting?

“Voting is far too complicated. The rules and logistics are so confusing that many would-be voters are bewildered: Do I need a stamp to vote by mail if my county doesn’t provide postage? (The answer is no.) Can I register on Election Day? (Yes.) I have a criminal record, does that bar me from voting in Utah? (No.) Clear instructions on the state’s election website and well-informed County Clerks could clarify the process. Sadly, complicated rules and arcane procedures are used to deter certain populations from voting.”

The President's Corner



Danielle Hawkes, Board President

What would you tell someone undecided about voting?

“Our ancestors fought for over a hundred years to win passage of the 19th Amendment so that women could vote. Activists were repeatedly beaten and jailed for their convictions. For people of color, the fight was—and still is—the hardest fight. There are forces that want us to remain silent, so that they can gain or retain power based on our apathy. But there is nothing that could stop me from being counted on Election Day. Voting is a fundamental right that I personally will not squander for any reason.”

THE ACLU OF UTAH

The ACLU of Utah, chartered in 1958, operates through public education, legal advocacy, litigation, and lobbying at both the state and local levels to ensure the constitutional rights and freedoms of everyone living in or visiting Utah. Our work is based on those principals outlined in the Bill of Rights and our priorities include: Participatory Democracy; Racial Justice; Criminal Justice Reform; Immigration Reform; LGBTQ Equality; Gender Equality; Privacy; and Religious Liberty & Freedom of Belief. In addition, we continue our commitment to protect the First Amendment. For more about the ACLU of Utah and our priorities please visit www.acluutah.org

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CALLING ALL ACLU MEMBERS!

Vote in the annual ACLU of Utah Board Elections



Board Members are volunteers and receive no financial remuneration for their service. Board candidates are nominated by the ACLU of Utah Governance Committee. Board terms are three years and Board Members may serve two terms.

Find our 2018 Board Ballot, including biographical information about the candidates and instructions on how to vote, online at:

www.acluutah.org/board-elections

Candidates for the 2019-2021 term are: Michael Aguilar, Christine Arthur, Marco Barker, Stephanie Burdick, and Kass Harstad.

“We set a legal precedent, and you can’t take that away”

20 years after Salt Lake City high school students sued to organize a gay-straight alliance, people are still talking about it

Most teenagers spend their high school years trying to blend in with the crowd. Few, however, engage in a multi-year legal battle against their school board plus occasional skirmishes with state lawmakers.

But that’s what happened in 1998 when students at East High School filed a lawsuit against the Salt Lake City Board of Education for violating their First Amendment rights. Backing them in the courtroom were the ACLU of Utah, Lambda Legal, and the National Center for Lesbian Rights.

What became a pair of lawsuits was initially sparked by the school board’s 1996 decision

to ban all non-curricular student clubs, rather than recognize the newly-formed gay-straight alliance (GSA) at East High. The board was forced to cut all clubs due to the Equal Access Act, a 1984 law championed by Sen. Orrin Hatch (R-UT) to prevent unequal treatment of religious clubs in public schools. If the board denied one club, they had to ban them all, so 46 non-curricular clubs—from the chess club to ski club—were prohibited from meeting on school property. For the next four years, students graduating from Salt Lake City’s high schools had almost no access to extracurricular activities and blank spots on their college applications.

A Club Like Any Other

According to Ivy Fox, a plaintiff in the 1998 case, “there was a real need for the GSA” at East High. The club’s goal was to create a safe environment for LGBTQ youth and support victims of anti-gay harassment. But Fox’s attempts to organize the club also brought latent discrimination against gay and lesbian students closer to the surface. She recalled how, after the lawsuit was filed, some teachers and administrators wouldn’t engage with the LGBTQ students in the same way they would others. But her efforts also brought students together in common cause to defend their rights—just as a gay-straight alliance was supposed to do. When the school board voted to ban all clubs, hundreds of students from both East and West High Schools walked out of school in protest. Newspaper articles described students holding signs that read “Separate Church and State” and “Honk in Support of the 1st Amendment,” while their classmates opposed to the GSA carried signs with anti-gay slurs.

In the Courts

As the dispute spawned more rallies and attracted national media attention, it also worked through the legal system. In November 1999, a federal judge dismissed

Recent Success for LGBTQ Equality in Davis County

Echoing the 1998 East High lawsuit, students at Davis County’s Viewmont High School recently found themselves at odds with administrators over a stalled application for a gay-straight alliance (GSA). The school’s existing policy recognized only curricular clubs, with no leeway for extracurricular groups. Without official recognition, student organizers couldn’t put up posters in the hallways, advertise events on the morning announcements, or participate in the school’s rush week to find new members.

Undeterred, the Viewmont students sought advice from the ACLU of Utah and PFLAG (Parents, Families and Friends of Lesbians and Gays), who started a dialogue with the school administration about equal access and First Amendment issues. The intervention worked. Starting this fall, the Viewmont GSA is an officially-recognized school club. In addition, the policy shift at Viewmont helped to set precedent for the nearby and brand-new Farmington High School to start recognizing both curricular and extracurricular clubs. Finally, as if to vindicate the persistence of the Viewmont students, 73 new members signed up to join the GSA during rush week.

the GSA lawsuit, stating the school district had resolved its First Amendment violations by making minor changes to its policies for approving student clubs. Fox and the other plaintiffs appealed. Six months later a new group of East High students filed a second lawsuit after a curricular club designed to operate like a GSA was also blocked by the school board. When a judge ordered the new club—and all GSAs—to be allowed to meet on school property, the board backed down, the case was dismissed, and the four-year legal fight was over.

Returning to Salt Lake City

On August 3, 2018—two decades after the

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Students protest gay club ban

Utah demonstrator hurt in Capitol march

Associated Press

SALT LAKE CITY — Hundreds of students walked out of school Friday and some marched on the state Capitol to protest a ban on extracurricular clubs that was aimed at preventing students from having gay-lesbian support groups.

The demonstrations were peaceful, but a 14-year-old girl was run over by a car on her way to the Capitol and seriously injured.

The school-club issue has become a hot topic for legislators. The Utah Senate on Friday passed a bill that would prohibit teachers from condoning illegal conduct in schools. Democratic opponents decried it as a thinly disguised swipe at gay clubs and their faculty sponsors.

The vote happened to coincide with walkouts by some of the more than 4,000 students at two public high schools.

At East High School, about 400 students gathered across a busy two-lane street from the school, shouting “We will fight for our rights,” and holding signs reading “Separate Church and State” and



STUDENTS LEAVE East High School during a walkout Friday to protest the Salt Lake City Board of Education’s decision to ban a non-curricular club from secondary schools in the district.

Several boys hoisted their own sign, which read “SAFE—Students Against Faggots at East.”

About 200 students walked out of West High and marched a mile to the Capitol. On the way, Jacqueline

East High, said protesters quickly heeded the principal’s request to end their protest because they achieved what they wanted, to be heard.

“I definitely think the point was made,” she said. “They’re wrong!”

Associated Press coverage of the February 1996 high school walkouts in Salt Lake City

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The Long Road to the Ballot Box

New commission districts and better voter assistance make this November's election a historic opportunity for Native American residents of San Juan County

In mid-September, ACLU of Utah staffers Rachel Appel and Leah Farrell left Salt Lake City for the 375-mile drive south to the Monument Valley Navajo Tribal Park in San Juan County. They weren't headed there to hike the red rocks or raft the rivers, but instead to talk to voters attending the Navajo Nation's 2018 Community Celebration.

This November's election could prove historic for San Juan County. Late last year, a federal judge ruled that the county's commission districts were gerrymandered to discriminate against the county's Native American population. Despite 49% of the county identifying as Native American, the county's voting map concentrated these voters in just one commission district, effectively giving white voters majority representation in the other two. Under court order, the districts were independently redrawn, resulting in—for the first time—two commission districts and three school board districts containing a majority Navajo population. Based on these new boundaries, the November election could shift political power in San Juan County to Native American residents for the first time in modern history.

Building a Case

The morning of the Community Celebration, Farrell and Appel drove to The View



San Juan County residents listen to voting advice at the Monument Valley Welcome Center

Restaurant—named for its stunning vistas of Monument Valley's iconic landscape—to have breakfast with Leonard Gorman and Lauren Benally from the Navajo Nation Human Rights Commission (NNHRC). Gorman, NNHRC Executive Director, was quick to remind everyone that it might be premature to call the day's event a "celebration" with so much work still to be done. But everyone realized that significant progress—mostly in the courts—had laid the groundwork to make the upcoming election possible.

Separate from the redistricting lawsuit, the ACLU of Utah sued San Juan County in 2016 after election officials switched to mail-only voting and closed all but one in-person voting

location. The lawsuit, filed on behalf of the NNHRC, demanded that polling locations be kept open on the Navajo Nation along with effective language assistance to Navajo-speaking voters. This past February, the ACLU of Utah reached a positive settlement with the county that confirms the satellite voting centers will remain open and provide effective English-to-Navajo interpretation. The ACLU of Utah continues to monitor the county's compliance with the terms of the settlement.

Finally, a third legal challenge flared to life this summer when the San Juan County Clerk/Auditor disqualified Willie Grayeyes—a Navajo running for a county commission seat—from

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Letter from Redrock Country

The ACLU of Utah's first-ever outreach coordinator for southern Utah has hit the ground running

In August, Sydni Makemo joined the ACLU of Utah as the organization's first-ever Southern Utah Outreach Coordinator. Based in St. George, Sydni will boost our affiliate's engagement in this fast-growing part of the state. We asked her to describe her first month on the job, and this is what she wrote:

Dear ACLU of Utah:

Although you might not realize it, we are already friends. You can call me Sydni. I'm new to the ACLU, but I'm not new to

appreciating the work that this organization does. Like many of you, I've witnessed injustice in my life. And, like many of you, I've seen how the law—skillfully applied—can bring justice to those denied it.

I believe that one of the best things about our country is how the civil liberties outlined in the U.S. Constitution apply equally to everyone living here. You don't need to be a citizen to exercise your First Amendment

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Selfies at the Provo Pride Festival

Busy in the Courts

Our legal team is currently investigating or litigating a half-dozen cases—from prisoner abuse to immigrants' rights

Porter v. Daggett County and Asay v. Daggett County (2018)

Issue: Criminal justice

Constitutional claim: Cruel and unusual punishment / 8th Amendment

Background: This spring, we filed lawsuits on behalf of three individuals seeking damages and injunctive relief for the extreme brutality they experienced while incarcerated at the Daggett County Jail. Our clients allege that they were shocked with a Taser for guards' entertainment, attacked by police dogs, physically assaulted, threatened with a gun, and denied medical and mental health care. The widespread abuse at the Daggett County Jail led to guilty pleas from four former employees and forced the state to remove its prisoners and close the facility.

Update: We opposed the state defendants' motions to dismiss them from the cases. Our clients sued to force more protective policies for state prisoners in county jails, which would benefit them and the one-in-five state prisoners presently in county jails.

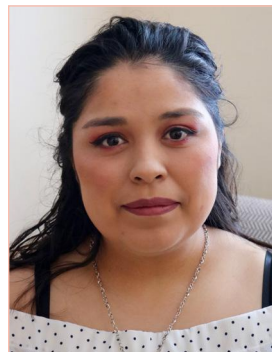
Ramirez v. Reddish (2018)

Issue: Immigrants' rights

Constitutional claim: Unlawful search and seizure / 4th Amendment

Background: In February, we sued agents from Immigration and Customs Enforcement (ICE), the U.S Marshals, and state and local agencies over two SWAT-style home raids

on our clients' home in Heber City in April 2017. During these raids, more than a dozen agents dressed in military-style gear and carrying assault-style weapons terrorized the



Berenice Ramirez, plaintiff

family by breaking down their front door, ransacking their house, and threatening to take their children away. Our lawsuit asserts the agents violated the family's constitutionally-guaranteed rights to be free from unreasonable and unlawful searches and seizures, and use of excessive force.

Update: The defendants have all filed answers to our amended complaint and a trial is scheduled for October 2019 after a period for factual discovery and other proceedings.

“Our clients allege that they were shocked with a Taser for guards' entertainment...”

Disability Law Center v. Utah (2017)

Issue: Disability rights

Constitutional claim: Right to counsel / 6th Amendment

Background: Last summer, the ACLU of Utah filed a lawsuit demanding the right to legal counsel for anyone who is a respondent to a legal guardianship petition. The lawsuit also challenges a 2016 Utah law that lowered legal counsel requirements for people with disabilities. We believe that every Utahn facing the loss of self-determination and control of their assets is entitled to independent legal counsel.

Update: Settlement talks continue this fall between the plaintiffs and the State of Utah.

ACLU of Utah v. Davis County (2018)

Issue: Criminal justice

Constitutional claim: Cruel and unusual punishment / 8th Amendment

Background: In May, the ACLU of Utah filed suit against Davis County over their refusal to provide complete records regarding the standards for prisoner health and safety used in the county's jail, as well as the final audit reports reflecting the jail's compliance. We requested those records from Davis County as part of our investigation into county jail practices and procedures after a surge of inmate deaths in Utah jails.

Update: The case is scheduled to be ready for trial in May 2019.

LEGAL

Smart Justice On a Roll

A recap of recent accomplishments by the Campaign for Smart Justice (CSJ) in Utah.

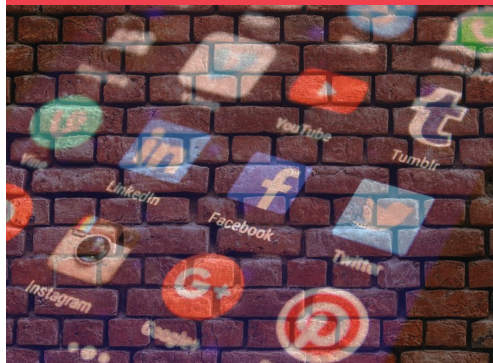
District Attorney Debates

On October 3, we organized a debate for the Salt Lake County District Attorney race between Republican Nathan Evershed and Democratic incumbent Sim Gill. While elections for county prosecutor jobs are typically low profile, this contest is getting attention because both candidates promote criminal justice reform. The Salt Lake County event was the second in our series of three debates coordinated with the ABU Education Fund. The final debate, held at Utah Valley University on October 9, featured both candidates vying for the open Utah County District Attorney job—Republican David Leavitt and Libertarian Andrew McCullough. CSJ is proud to highlight the important role of Utah's county prosecutors, and to demonstrate that criminal justice reform is not a partisan issue.

Blueprint for Change

In September, CSJ released the “Blueprint for Smart Justice Utah” as part of a national campaign to develop actionable policy steps to transform the criminal justice system and stop mass incarceration. Based on two years of research by the National ACLU and the Urban Institute, Utah's Blueprint identifies specific changes to reduce the state's prison population by 50% and address racial disparities in sentencing and incarceration. Even as crime rates fall, Utah's prison population has been climbing. Since 1980, Utah's population has increased by 200%, but the prison population has grown by 563%. The communities most impacted by mass incarceration are ethnic and racial minorities. We believe the Blueprint is a powerful tool for advocates, communities, and policy makers to address mass incarceration in Utah.

You can download the “Blueprint for Smart Justice Utah” and learn about our additional campaign goals at www.smartjusticeutah.org.



Don't Block Me

New court rulings agree that elected officials can't block constituents on social media pages

Our Founding Fathers could be mean. John Adams called Alexander Hamilton the “bastard brat of a Scottish peddler,” and claimed Thomas Jefferson’s soul was “poisoned with ambition.” Adams’ enemies retaliated by calling him a “blind, bald, crippled toothless man.”

Political debates today can be just as heated, causing some elected leaders to block constituents who post critical views from accessing their Facebook or Twitter accounts. However, the ACLU of Utah believes that official social media platforms for elected leaders and government organizations are public forums, and that blocking individuals is an unconstitutional restriction on their right to free speech. As more lawsuits over social media blocking by elected officials are filed across the country, more judges are increasingly seeing it the same way.

In April, the Governor of Maryland settled a lawsuit filed by the ACLU after his office blocked several constituents for posting critical comments. More recently, a federal judge in Maine allowed an ACLU lawsuit to continue against that state’s governor for blocking constituents—finding that social media censorship violated free speech rights.

These rulings even apply to the nation’s highest political office: In May, a federal judge in New York ruled that President Trump infringed on the First Amendment by blocking constituents who posted unflattering comments on his Twitter feed.

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The Cost of Operation Rio Grande

Thousands arrested, hundreds in treatment, and dozens in new employment—we take a closer look at the numbers behind the story

In August 2017—three days after the launch of Operation Rio Grande (ORG) to ‘clean up’ the area near 500 West—the ACLU of Utah offered our view: “Operation Rio Grande appears to be, at this point in time, ‘business as usual.’” Noting the heavy focus on law enforcement, we described it as another ineffective attempt to address complex social issues like substance abuse and mental illness “through our broken criminal justice system.” Media reports that week noted that state officials secured 300 jail beds prior to the operation, but only 37 beds for drug treatment. Seeing how ORG was designed as a hammer, we predicted 14 months ago that everyone it touched would become a nail.

A critical appraisal

Operation Rio Grande’s 24-month timer will expire soon after the June 2019 closure of The Road Home shelter and its replacement with three homeless resource centers. With that deadline now ten months away, we believe a critical appraisal is necessary. On October 18, the ACLU of Utah and the Campaign for Smart Justice in Utah will host a panel discussion about ORG at Centro Cívico Mexicano. Sharing their perspectives on the status and future of the operation will be police officers, drug treatment managers, attorneys, and community activists. Lara Jones and Billy Palmer, hosts of KRCL’s RadioActive show, will guide the discussion. A week prior to the event, the ACLU of Utah will release a report to prompt tough questions about the operation’s goals and successes. Our report will analyze three topics—the criminalization of homelessness; the burden of ORG on public defenders and treatment programs; and the erosion of privacy. We preview the first topic below.

By the numbers

The one-year anniversary of ORG this August generated conflicting reviews. Supporters cited safer streets and transformed lives, while detractors say

crime is being dispersed and most people can’t access the treatment they need. While state officials were cautious enough to reject a “mission accomplished” banner, they did highlight data they claim shows significant progress. Their approach wasn’t surprising given how statistical evidence has defined the official narrative of ORG. Every month since the fall of 2017, the state has published reports charting the operation’s three phases: 1) Public safety; 2) Treatment access; and 3) Employment training. Details from the August 2018 update are typical: a 42% decline in crime, 324 arrests, 16 people entering treatment programs, and 28 employment plans. ORG’s commitment to transparency is commendable. It is also helpful for identifying trends and problems that are missing or overlooked.

A serious imbalance

Since August 2017, more than 5,024 people have been arrested in the Rio Grande neighborhood, with 80% of them picked up for misdemeanors or warrants. During the same period, social service agencies added 243 new treatment beds while 120 individuals pled into drug courts. The 13-to-1 imbalance is a direct result of the law-enforcement dominance of ORG from its inception. And it isn’t a surprise. The day before the operation began, a well-known elected leader warned that “a short-term gain of a crackdown on drug crime without appropriate treatment and stabilizing resources brings long term-pain.” In contrast to the ORG approach, “Operation Diversion”—a smaller 2016 effort by Salt Lake City and County to reduce crime in the same area—secured 62 treatment beds ahead of time and prioritized access to services over jail. The operational names themselves are telling: “Diversion” was focused on guiding people to alternatives to jail, while “Rio Grande” is trying to pacify an area of the city.

Targeting everyone

Backers of ORG originally claimed its police

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2019 Statehouse Preview

Our team will push forward on equality and criminal justice, while protecting rights we've already secured

The 2019 Utah Legislative Session is just a few months away. Led by Marina Lowe, the ACLU of Utah's Legislative & Policy Counsel, our team will be supporting an array of sound policy proposals next year. As in previous years, we will rely on our well-informed and committed network of ACLU community activists to amplify our message. Stay tuned for more information about our lobbyist training workshops and online trainings in the new year.

Below is what we expect on our policy docket when the Utah Legislature convenes in late January 2019.

#1 Gender Equality

We anticipate a variety of measures to ensure that Utah employees are treated fairly in the workplace. Did you know that Utah businesses with fewer than 15 workers don't have to comply with antidiscrimination labor laws? We will seek to apply nondiscrimination protections to Utah employers with as few as one employee. This change would provide consistent and fair protections to employees from discrimination on the basis of gender, race, sexual orientation, or religion.

The ACLU will also support efforts to expand access to the Family Medical Leave

Act, so that more Utah employees have access to unpaid leave upon the arrival of a child in the family or in the event of a medical crisis. Paid family leave will also figure as an ACLU legislative priority.

#2 LGBTQ Equality

Last year, legislators debated a bill to set common standards for judges to determine when and how a birth certificate may be amended to accurately reflect a gender change. Although the bill never advanced during the 2018 session, we anticipate a new version will be introduced in the upcoming session. The ACLU will monitor the language and impact of this bill and consult with our allies to ensure that it protects and promotes the rights of Utah's transgender community.

#3 Criminal Justice

On this topic the ACLU's lobbying team finds common ground with many lawmakers and allied organizations. This year, we'll be working with these partners to advance

measures aimed at reducing mass incarceration and preserving constitutional protections for those who come into contact with law enforcement.

Together with the Refugee Justice League, we are working with a state legislator to correct a misalignment between federal immigration law and state criminal law that results in

negative immigration consequences for non-citizens who are charged with misdemeanors. We are involved in drafting several other justice-related bills, including reforms to civil asset forfeiture procedures, and changes to existing protocols for officer-involved critical incidents.

#4 Fourth Amendment

Following this summer's positive U.S. Supreme Court decision in the cell phone tracking case, *Carpenter v. United States*, momentum is building to provide stronger Fourth Amendment protections in Utah law against searches of electronic communications devices. When an individual shares information with a third party, such as a cell phone provider, we want Utah code to require law enforcement to obtain a warrant before they can access any information from that third-party provider. We are also working on a separate bill to reform how search warrants are executed.

#5 Curveballs

As always, the Utah Legislative Session holds many surprises. We build flexibility into our priority lists and workload to allow us to push back against any surprise bills, including attacks on women's rights, free speech, and reproductive justice. We will also work to protect and strengthen the role of participatory democracy in Utah, such as access to the ballot and the ability to decide issues through the ballot initiative process.



The entire ACLU policy and legal staff contribute to our legislative work



Marina Lowe (left) testifies against a bill at a House committee hearing during the 2018 legislative session

2018 Election Special Report

Follow These Tips To Make Your Vote Count

Bring correct (and current) identification to your polling place

Utah law requires valid photo identification (driver's license from Utah or any state, U.S. passport, tribal ID card) to vote. You can also show two different forms of identification that record your name and address, like a student ID card, current utility bill, bank statement, paycheck, certified birth certificate, valid Utah hunting or fishing license, Medicaid, Medicare or EBT card, or Utah vehicle registration. Bills and paystubs must be dated within 90 days of the current election.

Re-register if you've recently moved or changed your name

If you've moved into a new voting precinct, your name won't appear in your new area until you update your address. Ensure that your registration is current and accurate by going to the Utah Voter Registration website (<https://secure.utah.gov/voterreg>). Plug in your street address, Utah driver's license number, and date-of-birth to verify your registration. Or call your county clerk's office.

Ask for a provisional ballot

Whether you forgot your photo ID, didn't update your new address, or showed up at the wrong polling place, you always have the right to cast a provisional ballot. These are real ballots that will be reviewed after Election Day and counted when verified. Poll workers are supposed to give you a provisional ballot in these situations, but sometimes you need to demand one.

Vote by mail

Most counties in Utah will use vote-by-mail this year. Mail-in ballots will be sent out in early October and must be returned by the Monday before Election Day. Tip: You can mail back your ballot without a stamp—every county will cover the cost of postage whether it is pre-paid or not. You can also request an absentee ballot before October 30 by submitting an application at www.vote.utah.gov.

Or vote early

Early voting begins in most counties on October 23 and runs through November 2. Contact your county clerk's office to find early voting locations and times—including weekend hours.

Fighting Back for the Ballot

New laws and activist campaigns are expanding voter access across the nation—and right here in Utah

Voter suppression is real. In 2011, the ACLU counted 30 attempts by state legislatures to restrict the right to vote through strategies such as limiting early voting opportunities and requiring photo IDs.

But every action can spawn a reaction, and recent efforts to suppress voting have galvanized an equally strong response to protect and expand access to the ballot box—with the ACLU leading the charge.

Here are a few examples:

- In June, lawyers from the ACLU Voting Rights Project bested Kansas Secretary of State, Kris Kobach, in a three-week trial challenging his 2013 law requiring voters to prove their citizenship before registering to vote. Not only did the judge strike down the Kansas law as overly restrictive, but she also ordered Kobach to complete six hours of “continuing legal education,” the lawyer equivalent of being sent to summer school.
- When Georgia election officials attempted in August to close 7 out of 9 polling places in a rural county (claiming they weren't accessible to people with disabilities), activists created a media firestorm to stop the effort by highlighting that a majority of people living in the 430 square-mile county were Black and lacked access to transportation.
- This November, voters in Florida will consider a ballot initiative to restore voting rights to more than 1.5 million Floridians convicted of felonies who have completed their sentences and paid restitution.

Tracking Voting Legislation in the States: 2017-18

Moving Forward

- ☐ 41 states and Washington D.C. have introduced or continued 514 bills expanding voting access
- ☐ 12 states, including Utah, have advanced at least 20 bills expanding voting access through at least one legislative chamber

Going Backward

- ☐ 24 states have introduced or continued at least 70 bills restricting voting access
- ☐ 5 states have advanced at least 6 bills restricting voting access through at least one legislative chamber

Brennan Center for Justice, Voting Laws Roundup 2018

These three efforts are designed to reclaim ballot access for vulnerable populations. But other measures—often originating in state legislatures—seek to expand voting rights. In April, the Brennan Center for Justice, which reviews legislative activity on voting rights, concluded that “more pro-voter reforms are moving than anti-voter restrictions.”

Fortunately, Utah hasn't missed this boat. Thanks to a bill passed by the Utah Legislature in 2018, you can register to vote—and cast a ballot—on Election Day in every county. After 11 years of advocating for Election Day Registration, the ACLU of Utah is glad to see this practice made permanent statewide. If you register to vote on Election Day, you will be asked to vote with a provisional ballot—but your vote will still count like other votes. The same bill also makes it easier to register to vote or update your address when applying

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Marina Lowe (far left), ACLU of Utah's Legislative & Policy Counsel, attends the bill signing for HB218 to create Election Day Registration



How To Help Your Disillusioned Friend Vote

They've got excuses. Now you've got answers.

My vote doesn't count.

It might feel that way sometimes, but it actually does count. Just 3 votes (out of 17,000 ballots cast) decided a Utah Legislature election two years ago.

I don't want to be on jury duty.

Being judged by a jury of our peers is essential to our democracy. But if you're still not convinced, throw away your driver's license and stop paying taxes, because courts use those lists to find potential jurors, too.

I don't have a Utah driver's license.

You can use a valid state driver's license from any state to confirm your identity. But bring other identification (recent utility bill or bank statement) to confirm you are a Utah resident.

I'm not a U.S. citizen.

Okay, that excuse works. Only U.S. citizens can vote.

I just moved to Utah.

The only residency requirement to register to vote in Utah is to live in the state for at least 30 days prior to Election Day.

I'm a student.

You can register to vote at the address you consider your principal residence, which can be your school or home address.

I'm not registered to vote.

You can register by mail (before October 9) and online (before October 30), but you can also register and vote at any polling place on Election Day in every county in Utah.

I missed the registration deadline.

Sorry, that excuse won't work this year. Thanks to recently-passed legislation, you can register to vote and cast a ballot on Election Day.

I owe child support.

You will not be arrested for voting. Anyone who tells you that is trying to suppress your vote. Fight back and vote.

I don't know where to vote.

Your polling place is listed on the voter card you received after registering to vote. You can also find out where to vote at www.vote.utah.gov. If you go to the wrong polling place, you can still cast a provisional ballot.

I lost my mail-in ballot.

Request another mail-in ballot by calling your county clerk's office, take advantage of early voting (October 23-November 2), or vote in person on Election Day.

Polling places are too busy.

Vote from your kitchen table. Most Utah counties are using vote-by-mail ballots

this year, and absentee ballots are available via application (www.vote.utah.gov) before October 30. Plus, most counties allow early voting from October 23 to November 2, including weekends.

My boss won't give me time off.

Polls are open 7 a.m. to 8 p.m. If your work schedule prevents you from voting in person while the polls are open, you have the right to take time off from work (up to two hours of which must be paid time off) in order to vote. You have to give your employer notice of your need to take time off, and your employer has the right to specify which hours you get to take.

The line at the polling place is too long—they'll never let me vote.

You have the right to vote if you are in line when the polls close.

I've got a criminal record.

Past felony and misdemeanor convictions don't limit your right to vote in Utah. If convicted of a misdemeanor, your right to vote is unaffected. If convicted of a felony, your right to vote is restored when sentenced to probation, granted parole, or upon completion of a term of incarceration.

Check out the **2018 Utah Voter Empowerment Guide** at www.acluutah.org

FIGHTING BACK, continued from previous page

for or renewing a Utah driver's license. These changes are "less about ballooning voter rolls," the legislation's sponsor, Rep. Rebecca Chavez-Houck, told the *Salt Lake Tribune* in March. "It's more about taking down barriers to ballot access."

Another bill passed in 2018 allows 17-year-olds to vote in a primary election if they will turn 18 before the general election date. This new law, proposed by Rep. Joel Briscoe, will

allow many Utah students to cast their first vote before they graduate from high school.

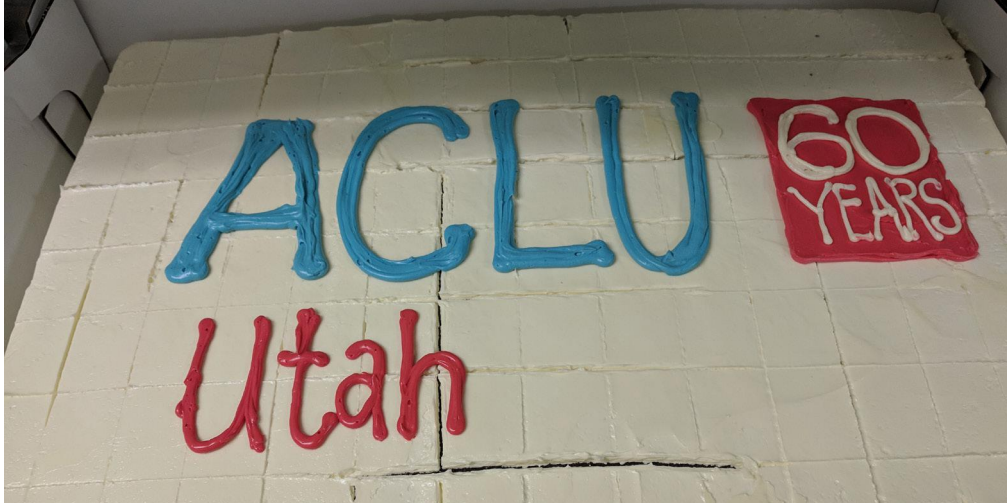
These recent successes don't mean that advocates for voting rights can rest. Efforts to restrict voter registration and ballot access continue at both the state and federal level. In July, New Hampshire passed a law restricting the ability of non-resident college students and military personnel to vote in the Granite State. For several years, the ACLU of Utah has been engaged in San Juan County to

improve ballot access and translation services for Navajo-speaking residents. We intervened in 2016 after the county switched to a vote-by-mail system and closed polling places on the Navajo Nation. We continue to monitor a positive settlement agreement reached with the county early this year.

Despite an overall positive trend, we must remain vigilant to identify and respond to new efforts to suppress the vote as the 2020 general election approaches.



ACLU of Utah In Your Community



People Power at the Ballot

Citizen-driven initiatives will let Utah voters pass new laws that legislators have let languish

This November it's extremely important to complete your entire ballot. That's because Utah voters will consider three numbered ballot questions addressing medical marijuana (proposition #2), Medicaid expansion (#3), and redistricting (#4).

Since these initiatives are placed at the "bottom" of the ballot—below the candidates running for office—some voters skip this section. Others might be confused by their legalistic wording. But these initiatives deserve your attention, not least because of the significant hurdles backers overcame to place them on the ballot.

While a ballot anchored by three initiatives is new in Utah, the policies underlying the issues are not. In recent years, Utah lawmakers have passed laws related to medical cannabis and Medicaid. But many Utahns claim these efforts didn't go far enough. For instance, Utah's current medical cannabis law restricts access to adults with terminal illnesses. Likewise, over 100,000 adults remain in the Utah's Medicaid coverage gap.

While we encourage voters to carefully study all of the initiatives, the American Civil Liberties Union of Utah, 501(c)4, is formally supporting the Better Boundaries Proposition #4 to end partisan gerrymandering.

What is Gerrymandering

Every ten years the Utah Legislature redraws district lines for the state's elected offices—from members of Congress to state lawmakers—based on population changes. These adjustments may be minor



or significant depending on the whim of legislators. Gerrymandering is a long-standing practice (dating from 1812) in which district lines are purposefully redrawn to predetermine the outcomes of elections. The ACLU believes gerrymandering is harmful to democracy because it artificially dilutes or strengthens voters' representation. Consequences of gerrymandering include unrepresentative elected bodies and reduced turnout due to voter apathy. In 2017, the ACLU filed briefs in two partisan gerrymandering cases before the U.S. Supreme Court. In both cases—one filed by Democrats in Wisconsin, the other filed by Republican voters in Maryland—the justices declined to rule on the constitutionality of partisan gerrymandering, leaving efforts like Better Boundaries the best way forward for states to pursue change.

Utah isn't a stranger to gerrymandering. After Utah's 2001 redistricting map resulted in 684,000 voters shifting among the state's three congressional districts, the *Wall Street Journal* called the effort a "scam" to defeat the state's lone Democratic member of Congress. Those aims continued in 2011—

now aided by mapping programs—when the next wave of redistricting rotated the state's now four districts around the state like a pinwheel. Meanwhile, analysis by the Utah Foundation found that Utah's 2016 voter participation ranked 39th nationally and had declined over the last four decades.

Seeking Better Boundaries

Frustration with the 2001 and 2011 redistricting processes led to this year's Better Boundaries initiative. If passed by voters, proposition #4 will make it harder for the Utah legislature to gerrymander new districts by, 1) creating an alternative pathway to develop a nonpartisan redistricting map, and 2) forcing the legislature to justify any deviation from the nonpartisan plan.

The initiative creates a seven-member commission to recommend redistricting plans for federal and state offices. Seven states—Arizona, California, Hawaii, Idaho, Montana, New Jersey, and Washington—already require this. Commission members will be appointed by the Governor and the leadership of both houses of the Utah Legislature. The initiative also requires that commission members not serve as lobbyists or party delegates, and it prohibits them from running for office for four years after serving on the commission.

Better Boundaries does not force the state to adopt the commission-drafted redistricting plan, but it does require the legislature to vote on it. If the legislature chooses its own map, the initiative requires lawmakers to justify their decision. It also empowers the commission to evaluate any legislature-drawn

Utah Ballot Initiatives in 2018



Proposition #2: Utah Medical Cannabis Act

Legalizes medical marijuana for individuals with qualifying conditions and with a recommendation from a physician.



Proposition #3: Utah Decides Healthcare Act of 2018

Requires the state to expand Medicaid coverage to Utahns under the age of 65 and with incomes equal to or below 138 percent of the federal poverty line.



Proposition #4: Utah Independent Redistricting Commission and Standards Act

Creates an independent redistricting commission to draft maps for congressional and state legislative districts and submit them to the legislature for approval or rejection.

Continued on page 15

STAFF UPDATES

Our staff has increased by three in recent months—including our first organizer based in southern Utah

Rachel Appel

Community Outreach Fellow

The experiences that set Rachel on the path to working at the ACLU are as diverse as her current job description. She built affordable housing while biking across the country, learned community activism with Jews United for Justice, and worked at a Washington, D.C. law firm. Those previous roles help her now as she travels the state to organize events, meet ACLU members, and introduce Utahns to our mission.

Rachel is excited to be working on the frontlines of social change as the nation moves through a pivotal period for civil liberties. “As someone who is coming from a position of relative privilege and power,” she explains, “I want to stand up for those who are disenfranchised, oppressed and threatened; which are also the goals of this amazing organization.”

A self-described foodie, she loves new experiences—whether it’s trying out a new restaurant, challenging herself on a mountain hike, or getting to know the diverse communities spanning the state. She especially looks forward to creating long-lasting relationships during her time at the ACLU of Utah. “I believe an essential component of creating change is raising awareness and changing minds, which begins by having a conversation.”

Niki Venugopal

Development and Finance Assistant

Niki, like so many others, discovered her drive for political and social engagement after the 2016 presidential election. She began her involvement with the ACLU of Utah as a volunteer in 2017, assisting with development, intake, and planning the ACLU of Utah’s 60th anniversary celebration. In June 2018, she formally joined our team as the Development and Finance Assistant.

Originally from Sammamish, Washington, Niki enrolled at University of Utah in 2014



Rachel Appel, Community Outreach Fellow



Niki Venugopal, Development and Finance Assistant



Sydni Makemo, Southern Utah Community Outreach Coordinator

to major in ballet and political science. Over time, her interests shifted and she realized her strongest passion was for justice and activism. In the future, she hopes to attend law school.

Niki appreciates being involved with an organization that fights tirelessly on behalf of community members who may not be able to stand up for themselves. But at the end of each day, she still loves to come home to read a good book and hang out on the couch with her Rottweiler and cat.

Sydni Makemo

Southern Utah Community Outreach Coordinator

Sydni first learned about the ACLU when she was young, but she began to pay more attention to the organization after its ardent opposition to the Patriot Act and increased government surveillance following 9/11. “Fighting to protect our privacy, even though it was unpopular at the time, showed me that the ACLU could maintain its sanity and civility even when others were running scared,” she said. “I knew then it was an organization with a strong mission.”

Sydni’s jobs before arriving at the ACLU of Utah—personal trainer, website designer, restaurant manager—spanned many roles, but each position resulted in her making positive change in the lives of others. At age 19, she organized “The Running Program” at the women’s state prison facility in Draper, successfully arguing that women prisoners needed the same time and access to physical recreation that men did. She also secured healthier menus for women prisoners, explaining that better eating habits would boost their mental and emotional well-being.

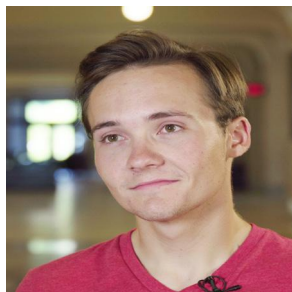
Based in St. George, Sydni travels throughout southern Utah to meet new partners, organize events, and keep a lookout for potential ACLU legal cases. When she’s not working, she loves canyoneering, hiking in the desert, running trails, and instilling the value of always standing up for others in her two young children.

Generation Next

We asked four Utah students to describe their experiences at the ACLU's National Membership Conference

Nicholas Cockrell

'You belong here.' These three words have been running through my head since returning from the ACLU's National Membership Conference in Washington, D.C. This simple phrase hit the nail on the head as to what makes the ACLU an essential player in today's political climate. The



toxicity, bigotry, and anger that exist within our politics have left many in society feeling that they do not belong here. In truth, the United States has never been as welcoming or accepting as may have been promised on the Statue of Liberty, but we have never stopped striving toward that ideal. At the National Membership Conference, I was able to witness and learn firsthand from people who work every day to push the United States toward a more ideal society—one that is more loving and inclusive.

Nicholas Cockrell is a senior at the University of Utah studying history and political science. He started interning with the ACLU of Utah in May 2017 and has never left.



Mishka Banuri

The ACLU's National Membership Conference enabled me to listen to people that have motivated me for my whole life. I met Cecile Richards, the former Executive Director of Planned Parenthood. As a Planned Parenthood Association of Utah teen council member, I have been inspired by Cecile's legacy of perseverance and justice. Sitting on a panel with Kerry Washington

was Saru Jayaraman, a South Asian activist who organizes against the exploitation and sexual harassment of female workers in the restaurant industry. Meeting other South Asian and reproductive rights activists is always a highlight for me, because connecting with people with the same interests rejuvenates me as a young activist.

Mishka Banuri is a senior at West High School in Salt Lake City. Last summer she attended the ACLU Summer Institute on behalf of the ACLU of Utah.

Marley Dominguez

While all of the sessions I attended were informative, the two panels that stood out the most were on Indigenous justice and



trans activism. Despite being familiar with Indigenous rights, I left that session with a new understanding of how schools systematically oppress Indigenous students and their knowledge. It is easy to imagine how boarding schools inflicted trauma on the young Indigenous children who attended them, but it is less understood how this trauma gets passed down from generation to generation, sneaking itself into Indigenous peoples' lives. It was also incredibly empowering to see that all the speakers on the Beyond the Bathroom segment were trans people who could speak of their experiences and their activism. I appreciated the way the panelists explained how people could empower queer communities without taking up their space, which is especially important to remember as allies.

Marley Dominguez is a second-year student at Westminster College majoring in political science and minoring in gender studies; she serves as the political engagement coordinator at the school's Dumke Center for Civic Engagement.

Tristan Palmer

One of the most interesting panels I attended was "Your Favorite Website May Be Discriminating Against You." From it, I learned how our personal data is being used by large social media-driven advertising companies such as Facebook to create secret profiles for people based on their political preferences, race, and even the brand of smartphone they use. These firms

are especially interested in people who switch between different brands. After these advertising companies divide consumers into categories based on their preferences, they allow other companies to create ads that are specifically directed at someone who fits certain categories like race, education level, and the politicians they like. It was interesting to review the ad categories

Facebook assigned me to and realize that they are correct in most ways and linked to the specific ads that I see on my social media feeds every day.

Tristan Palmer is a second-year student at Westminster College studying chemistry and geology. He has advocated to expand medical coverage for juvenile diabetes and volunteered in a local elementary school.

GSA, continued from page 3

events described above—the lead plaintiffs in these landmark lawsuits gathered at the Utah Pride Center to recall the social activism that defined their teenage years. The night was a cascade of tears, laughter, and shared memories as an audience of more than 50 relived the turmoil that split apart schools, lawmakers, and generations. Leah Farrell, a student plaintiff in 1998 and now the ACLU of Utah’s Senior Staff Attorney, recalled the confusion she experienced when asked to join the lawsuit. Farrell said yes because she felt morally obligated to stand alongside her friends. Fox recalled that the support she received from her peers during the lawsuit “was a little bit of a mixed bag.” While some students were quietly supportive, she appreciated her classmates who would be seen with her and talk openly about the lawsuit.

Learning from the Past

Although they may not have known it at the time, the actions undertaken by Fox, Farrell, and their co-plaintiffs would eventually inspire a new generation of youth activists. That outcome was apparent during the August 2018 reunion at the Pride Center, which doubled as opening night of the GSA Network’s National Gathering which was meeting in Salt Lake City. Listening to the former East and West High School students reminisce about their groundbreaking activism in the 1990s was a room full of current teenagers from across the country waiting to tear down discriminatory barriers in their own lives today.

Although the 1998 East High GSA lawsuit quickly became a landmark case for gay rights, its impact continues to filter down to school boards and high schools in Utah and in other states. Some of the high school students who attended the GSA conference in August are re-fighting the same equal access battles as Fox and Farrell, while others are pushing for less discrimination of their trans peers in their schools. If history repeats itself, 20 years from today these teenagers might, in turn, share their stories of difficult struggles and inspire the next generation of student activists.

LONG ROAD, continued from page 4

participating in the election based on accusations that Grayeyes lived in Arizona. After a federal judge reversed the clerk’s decision based on due process violations, the public learned that the county clerk had backdated the original complaint against Grayeyes’ residency.

At the Celebration

After breakfast, Farrell and Appel walked to the Tribal Park Welcome Center as the Community Celebration began with speakers encouraging the 200 attendees to check their voter registration and be politically active. Leah and Rachel listened to Navajo residents talk excitedly about the opportunity for change this fall as everyone dined on mutton stew and cornbread. Other attendees raised concerns about voting barriers that remain for residents of the Navajo Nation—including errors in the voter records. Similar to other rural areas, many homes on the Navajo Nation lack a street address due to the region’s dispersed housing and lack of named roads. While people have adapted by utilizing P.O. boxes located many miles from their residence, and sometimes across the border in Arizona, voting problems arise because San Juan County officials use these P.O. boxes and inexact coordinates to locate the homes of Navajo Nation residents registering to vote. Melding the Navajo Nation’s traditional way of life with the county’s street-based approach to voter registration doesn’t work.

When the NNHRC joined with the Rural Utah



Monument Valley, San Juan County

Project (RUP) to survey 585 voters living on the Navajo Nation, they discovered that 88% of respondents were living at a different location from their registration place. One out of five voters were registered in the wrong precinct. In some cases, county records located homes of registered voters in the middle of bodies of water. The San Juan County Clerk/Auditor acknowledges the errors, but locals say he is putting the burden on Navajo Nation residents to identify the mistakes. To chip away at this serious problem, RUP staffers brought their laptops to the event and worked with attendees to confirm and sometimes correct their voter registration information.

As the November general election approaches, the ACLU of Utah, RUP, and the NNHRC are closely monitoring the voting process in San Juan County to ensure that election officials adhere to the settlement agreement. Our primary goal is that all residents of San Juan County can fully exercise their right to vote—and this year we will be on the ground to make sure it happens.

RIO GRANDE, continued from page 6

sweeps would target the “worst of the worst” to drive away the area’s drug trade. But a month into the operation, reporting by the *Salt Lake Tribune* detailed how only three of the 1,106 ORG-related bookings were first-degree felonies, and only one-fifth had any felony charge at all. Most charges were low-level, drug-related misdemeanors or warrant violations. In response, an ORG leader told the *Tribune* that they were instead targeting “expendable” individuals at the “bottom” of the local drug trade. Plus, although law enforcement leaders said they wouldn’t arrest individuals for nuisance crimes like jaywalking, littering, or loitering—the ACLU has learned that police frequently rely on those minor infractions to stop, question, and

search individuals.

Entirely missing from the official narrative is the impact of these thousands of new arrests, fresh criminal records, and additional stints in jail—mostly due to minor offenses. Undoubtedly, ORG has made it harder for many people to rebuild their lives. Just as we stated in August 2017, the short-term, law enforcement focus of ORG, combined with a shortage of resources for drug and mental health treatment, has hamstrung the operation’s long-term goals.

Read the ACLU’s complete report on Operation Rio Grande, and watch video of the October 18 panel discussion at www.acluutah.org

rights. You don't need to be documented to seek protection against discrimination. Well, at least that's how it's supposed to work. When the system fails, the ACLU is there to plug the holes in our constitutional rights.

The ACLU of Utah believes that you are entitled to the same rights no matter if you live in a big city or an isolated corner of the state. But for years the affiliate's resources have been concentrated along the Wasatch Front. Our main office is located a half-mile from the Utah Capitol and within a few blocks of the state office buildings and fancy law firms that encompass most of our legal work. But what about the rest of the state? What about the one million Utahns who live outside the Ogden-Provo corridor?

That's where I come in, at least for everything south of I-70. I see my job as identifying opportunities and making connections to places in Utah that the ACLU hasn't been able to reach before. I am the eyes and ears of the ACLU in southern Utah. I am the maker of friends, and the planner of incredible events. I am the face-to-face meeting at your favorite cafe instead of a phone call to Salt Lake. I am someone who understands southern Utah, who graduated from Dixie State University, and who can tell you the best ice cream in St. George is on the boulevard at Nielsen's.

Launching the ACLU's first outreach project in southern Utah is a huge endeavor. To make it easier, I divided my responsibilities into these three steps:

- Listen
- Organize
- Act

The listening phase is off to a great start. During the last month, I sat down with students, professors, and administrators at Dixie State University. I button-holed local business owners, community leaders, parents, school principals, non-profit organizers, and attorneys. My goal is to introduce myself to the many communities that make up southern Utah and let everyone know that the ACLU is here as a neighbor, as an ally, and as someone willing to help.

As I continue to listen, I am already pursuing the next step of organizing events

map based on standards designed to reduce gerrymandering, such as keeping counties and cities whole; creating geographically compact and contiguous districts; preserving traditional communities; and following geographic features.

Finally, Better Boundaries allows Utah residents to sue to block implementation of any redistricting that fails to meet the initiative's standards—a powerful brake on the legislature's ability to ignore the commission's mandate.

The ACLU of Utah believes that Utah's next redistricting map in 2021 should not be left for elected leaders to draw for their own benefit. The Better Boundaries initiative removes politics (and politicians) from the redistricting process, and we think that is how it should be. This fall, Utah voters can start the process to make redistricting work by voting for Better Boundaries and proposition #4.

based on what I've learned. I am organizing an educational event about DACA and immigrants' rights for the region's large and growing immigrant population. I am also planning a "Know Your Rights" training for the St. George-area LGBTQ community featuring Leah Farrell, the ACLU of Utah's Senior Staff Attorney.

The third step guiding my work is action. Or, as I like to describe it, "Doing what I said I was going to do." This not only includes putting on events, but also engaging in deep conversations, developing key relationships, and building trust and commitment within new communities. The first event that combined both listening and organizing was the Pride of Southern Utah festival that occurred at the end of September. I enjoyed seeing so many people from our community share in a festival based on the idea of accepting people for who they are.

I am thrilled to be the newest member of the ACLU of Utah team. And I am grateful to have the chance to get to know you better. Like I said, we're already friends.

Sincerely,
Sydni Makemo

Every week the ACLU of Utah receives complaints from constituents blocked by Utah elected officials or governmental organizations. Our intake teams takes these complaints seriously and asks constituents to send us screenshots of their blocked status. We explain that First Amendment rights apply to social media platforms operated by elected officials, official boards, organizations, agencies, commissions, or any other officially constituted group of a public entity, but they do not apply to personal or campaign pages. Individuals can be blocked for violating clearly-stated guidelines on profanity or threats, but not for offering critical views. We also direct complainants to our "Know Your Rights" primer on social media blocking, which recommends contacting the elected official to 1) ask for an explanation, 2) request a copy of posting guidelines, and 3) demand to be unblocked. Last month we updated this toolkit with references to recent court decisions and added a downloadable "cease and desist" letter template that constituents can send to the elected official blocking them. If you believe you have been unfairly blocked by an elected official, contact us at intake@acluutah.org, and check out the resources at the website link below.



Know Your Rights:
When Elected Leaders
Block You on Social Media

www.acluutah.org




Sydni Makemo in Zion National Park

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