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ACLU of Utah and Holland & Hart LLP Announce Lawsuit Against State of Utah Over Indigent Defense

SALT LAKE CITY, UT — Today the ACLU of Utah and co-counsel Holland & Hart, LLP, filed a class action lawsuit against the state of Utah for failing to meet its Sixth Amendment obligations under the U.S. Constitution. Copies of the legal complaint can be downloaded at Remick v. Utah.

<http://www.acluutah.org/legal-work/current-cases/item/1182-remick-v-utah>

“We cannot have a criminal justice system with any integrity if Utahns are not ensured vigorous legal representation when facing the power of the state,” said Executive Director Karen McCreary, as she announced the lawsuit at a press event this morning. “But the majority of Utahns – more than 80% - who find themselves facing jail time do not have the disposable income to hire a private attorney. That is why we need, and should have, a robust public defense system statewide.”

The ACLU of Utah has been engaged in advocacy related to Utah’s failing indigent defense system since before 2011, when the organization released “Failing Gideon,” a report that illustrated the many ways in which Utah is failing to fulfill the Sixth Amendment’s guarantee of access to legal counsel. A report released in 2015 by the Sixth Amendment Center, a non-partisan research organization, confirmed the dismal findings in “Failing Gideon.”

According to ACLU of Utah Legal Director John Mejia, “The state has known about these persistent and egregious issues with its public defense system for years. And yet, the state has continued to abdicate its responsibilities in this area, offering neither funding nor oversight to assist counties and municipalities in the provision of defense to those who cannot afford a private attorney. The legislation passed during the 2016 Legislative Session is far beyond ‘too little, too late.’”

The lawsuit was filed in Utah’s Third Judicial District Court, naming six individual plaintiffs, as well as multiple John Does, as representative of a class of individuals seeking declaratory relief. The named plaintiffs – who are facing charges in Tooele County, Carbon County and Cache County – were discovered through jail visits and courtroom observations throughout the state. They were selected as plaintiffs, according to Mejia, because “they have all experienced the delays and difficulties accessing counsel that are indicative of the system’s problems statewide.”

Holland & Hart partner John Harrington discussed at the press event why the law firm was participating in this lawsuit, which is certain to be resource-intensive and lengthy. "Private attorneys in Utah, and the legal community in general, should care about this issue because it directly implicates the integrity of our justice system right here in Utah," said Harrington. "This case also directly impacts the oath, sworn to by all Utah attorneys, to 'support, obey and defend the Constitution of the United States and the Constitution of Utah.' The legal community, and particularly, every Utah attorney, has a heightened vested interest and obligation in ensuring the state is satisfying their constitutional requirements."

Established in 1947, Holland & Hart is a full-service, national law firm that today has more than 500 lawyers in 15 offices across the Mountain West and in Washington, D.C. delivering integrated legal solutions to regional, national, and international clients of all sizes. The firm has been a distinguished member of the Salt Lake City legal community since 1994. Over the last 20 years, it has grown into a full-service office of 95 lawyers providing advice on the wide range of legal issues facing Utah businesses. In both 2009 and 2011, Holland & Hart was named the "Utah Pro Bono Law Firm of the Year" by the Utah State Bar.

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