

**ACLU of Idaho Celebrates 25 Years!**

**IDAHO**

**LIBERTY**

**Fall/Winter 2018**

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Centering Marginalized Voices in Activism **PG 6**

Criminal Justice Reform in Idaho **PG 10**

Secrecy Around Idaho's Lethal Injection Drugs **PG 13**



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# Honoring 25 Years in Idaho & Looking to the Next 25 and Beyond

By Leo Morales,  
Executive Director



Communities in three different regions of the state now have a piece of art honoring our legacy of 25 years in Idaho since our affiliation with the national ACLU back in 1993. Moscow, Garden City, and Idaho Falls communities came together to work with local artists and the ACLU to create three murals depicting themes ranging from political protest, free speech, communication and understanding. As a statewide organization, it was important for us to have murals in multiple communities, as our work protecting civil liberties certainly is.

Looking back at our history, the challenges and victories range from the early struggles to protect the rights of women to securely procure an abortion, to challenging the state in censoring public education related to LGBTQ equality on public television, to affirming the separation of church and state. In the last decade we successfully represented prisoners in stopping rampant violence in Idaho's "gladiator school" private prison, we secured the rights of individuals with developmental disabilities from state discrimination in the Medicaid program, and filed a case to bring Idaho's public defender system to par with constitutional standards.

We secured several policy victories at the state and local levels as well, including the passage of comprehensive non-discrimination ordinances in multiple cities, the blocking of anti-immigrant legislative bills, and the decriminalization of certain crimes.

We are proud of our accomplishments and are poised to take on the next 25 years and beyond.

Today, we look toward the future with a sense of urgency and unfettered conviction as we mount unprecedented resistance to unthinkable acts and attacks on our civil liberties nationwide. With a presence in every state of the union, we are using our firepower to challenge the government in court, lobby legislative bodies and organize community members across all avenues of life in the defense of our rights.

In Idaho, we are committed to building the best legal department to challenge government infringement on our rights. Every year we receive approximately 2,000 requests for legal support from Idahoans who view us as their only or their last chance at justice. We have an obligation as defenders of freedom to rise to the challenge. Therefore, over the next few decades we will build our internal legal capacity to take on the challenges that undoubtedly will be before us as a result of both the national landscape and Idaho's urge to limit our rights.

The courts, however, must be the place of last resort. To build our collective strength, time and energy will be placed on building a robust advocacy department that can lobby the state legislature, engage local government and radically reimagine how we connect and organize—not only for ACLU members, but all Idahoans. In doing so, we hope to

increase our capacity to fight for what we believe in and to create communities where all people can enjoy their civil liberties.

We envision, over the next several decades, engaging historically marginalized communities and individuals experiencing harm to be at the forefront of the struggle for justice. As an organization, we will commit our resources to ensure that native communities, women, youth, members of the LGBTQ community, communities of color, and individuals living with a disabilities have access to our organization as they fight for their rights. Historically, we know all too well that government often starts attacking our individual rights via marginalized communities or individuals living on the margins. Therefore, over the next several decades we will make significant investments in our advocacy department to ensure that we can push back on a national agenda, form partnerships in Idaho and lead with the voice of those most impacted.

The 25th year anniversary mural project helped kick-off our legacy of work, but it also symbolizes our path forward as a statewide organization. Today, we are stronger than ever, yet I am optimistic that the future is still full of untapped opportunities.

**“ We are proud of our accomplishments and are poised to take on the next 25 years and beyond. ”**

## LIFT EVERY VOICE

# Centering Marginalized Voices in Organizing & Activism

Jeremy Woodson,  
Community Engagement Manager

2018 has been a year of movement. Action, reaction. Repeat. Statewide and across the nation we continue to see vicious assaults on the rights of immigrants and undocumented people, women, LGBTQ communities, communities of color, prisoners and folks with criminal convictions and people with disabilities and mental illness- to name a few.

As engaged members of our communities, activists, faith groups and community organizations, we met and responded to those challenges head on, leaning into every opportunity to better understand how to organize, resist and proclaim our humanity.

When faced with a nasty anti-Sharia Law bill, which would have hindered religious diversity and stirred anti-Muslim sentiment in Idaho, we reached out to community members of Islamic and other faiths across Idaho, in addition to partner organizations that work closely with Muslim communities and faith leaders to not only discuss a coordinated response to the bill, but to invite them to testify in the legislative committee where the bill was to be heard. The bill ultimately died and members of the newly formed coalition went on to organize a forum on Islam, aimed at accurately educating the community on the religion.

As news of the family separation crisis made headlines, we coordinated with Latinx organizers and immigrant community groups around Idaho who were planning rallies and protests,



connecting them with ACLU supporters and providing updates and guidance on calls to action and how to get involved.

As a part of our K.W. lawsuit about the Idaho Medicaid program for adults with developmental disabilities, we continue to organize with self-advocates of people with developmental disabilities, making sure they have a voice in the deciding the changes that are being made to the program.

When the call went out to support a non-discrimination ordinance being proposed in Meridian that would ensure “that all persons, regardless of sexual orientation and/or gender identity/ expression enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and the use of public accommodations,” we responded by reaching out to our LGBTQ partners and ally groups to find

out how we could best support their efforts to turn out people to the city council hearing. The non-discrimination ordinance passed on September 25, 2018 and immediately went into effect, making Meridian the thirteenth city in Idaho to adopt the protections.

A key element in all of these efforts is the intentional centering and elevation of impacted and marginalized voices. This intersectional approach to organizing means that we strive to understand—first and foremost—that there are systems of oppression (white supremacy, racism, transphobia heteronormativity ableism, etc) which are operating on personal and institutional levels to produce and promote inequalities on the basis of race, sexual orientation, immigration status and gender identity, among other traits.



“ 2018 has been a year of movement. Action, reaction. Repeat. ”

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As organizers and activists, when we fail to center marginalized voices and put intersectionality on the back burner, we fail to take into account cultural nuances that are informed by these systems of oppression, which have been around for centuries. Nuances that cannot be ignored if we hope to foster meaningful advocacy.

Centering marginalized voices means including and consulting grassroots groups, organizers and leaders from the community in which you are advocating for before planning an action around an issue that affects said community. It means accepting the legitimacy of concerns raised in communities of color when deciding whether or not to invite members of law enforcement to community meetings and discussion panels.

## *We Cannot*

talk about freedom of speech rights without acknowledging that protection under this right varies across race, ethnicity and sexual orientation.

## *We Cannot*

advocate for criminal justice reform without also addressing the ways that it intersects with racism, mental illness and substance abuse and addiction.

## *We Cannot*

organize rallies, forums and trainings on sexual and domestic violence without including the narratives of transgender and indigenous people.

## *We Cannot*

push for immigration reforms and protections without respecting and creating spaces for undocumented people and their stories.

By failing to include marginalized people in the arena of discourse, we run the risk of harming the very same communities that we are fighting so hard to uplift and protect.

Indeed, intersectionality and representation matter, but representation and amplification of marginalized voices is far more complex than mere inclusion. It is just as important to realize that not all marginalized groups are homogenous and there are privileged identities and classes that exist within those groups. For many different reasons, not everyone will be willing to share their stories or move into a position of action. That is a reality we ought to be willing to accept while at the same continuing the push for inclusion and advancement of the most impacted among us—fighting the oft touted fear of divisiveness.

The practice of centering marginalized and impacted people in organizing and activism is nothing new, but it is something that organizations such as the ACLU have struggled. As the ACLU of Idaho passes its 25th year of protecting the rights of all Idahoans, we invite our members, partners, supporters and allies to join us in re-committing ourselves to representing our diversity and collective humanity. In doing so, we will create the Idaho we envision with all of the fortitude and resilience that comes with uplifting those who have historically and currently been brushed aside.



@freeside/Flickr

## Bringing Smart Justice to Idaho

Kathy Griesmyer, Policy Director

Idaho is in the midst of a criminal justice crisis. Currently we rank 14th in the nation for our incarceration rate per capita, despite having one of the lowest crime rates in the country. Our prison population expects to grow up to 10,000 prisoners by 2020, triggering the need to build new prison facilities to accommodate growth with an estimated price tag of \$500 million. Our public defense system is broken, with one out of every three Idahoans reliant on a system that discards their constitutional

right to legal representation. Felony drug convictions are on the rise, leaving thousands of Idahoans battling addiction and mental health needs with few treatment options outside our jail and prison walls. And, with an estimated 361,000 Idahoans with previous criminal convictions, additional community reentry support services are a critical component of ensuring former prisoners can successfully find gainful employment to build stability and reduce their risk of recidivism.

If this seems shocking to you, it should. Our criminal legal system serves more Idahoans “injustice” rather than the promises of due process and equality that are promised under the U.S. Constitution. For too many decades – heck centuries – our criminal legal system has remained an oppressive system that targets people of color, immigrants, and people experiencing poverty, removed them from their families and communities, and expected that a harshly retributive system would result in public safety changes.



At the time of writing this article, Idaho is about to elect a new governor for the first time in almost a decade. And, one third of the legislature will be comprised of newly elected lawmakers when they convene in early January 2019. To us at the ACLU, this means opportunity. A chance to set an agenda at the Idaho Statehouse that understands the immediate need to address criminal justice reform. Come January, we plan to bring a twofold strategy to the legislative session. First, we’re working to build a base of criminal justice reform supporters, led by those who are closest to the issue – formerly incarcerated people and the family and friends who’s loved ones have been incarcerated. What we know is missing from effective change in Idaho is centering the reform

conversation around those who have lived experience in our courts, jails, and prisons. Their collective power and personal stories need to be the central focus point when re-envisioning Idaho’s criminal legal system. Second, we’re working on a number of legislative issues with the aim of addressing our addiction to incarceration in Idaho.

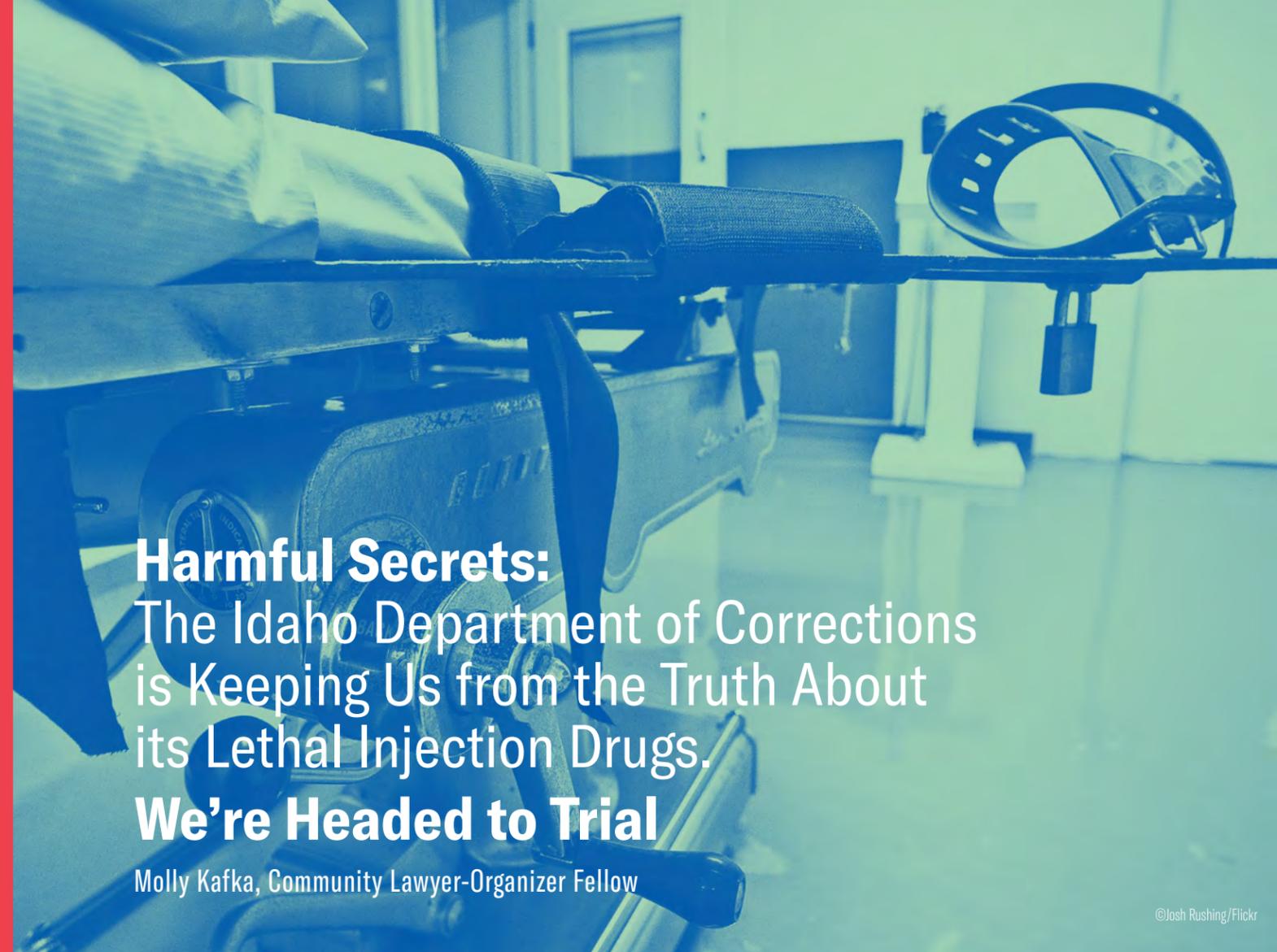
Our key legislative priority will be the return of our “Ban the Box” bill which aims to ensure that Idahoans returning to the workforce post-incarceration are able to access employment opportunities that

decrease their likelihood of recidivism, allow them to provide for themselves and their families, and increase their ability to contribute to Idaho’s growing economy. With an estimated 21% of Idahoans currently having a previous criminal conviction and close to 18,000 people on probation or parole, access to meaningful employment is a critical recidivism reduction tool that can keep people in their communities and out of jail or prison. We’ll also be advocating for repeal of mandatory minimum sentences related to drug crimes, asking for deeper financial investments in Idaho’s seriously underfunded public defense system, and looking for community collaboration to address substance abuse addiction and mental health needs.



*As you're reading this article and wondering where you fit into this legislative strategy – know there's a place for everyone.*

1. If you, or someone you know, have been directly impacted by incarceration, we want to connect with you! We've launched a story gathering campaign for our "Ban the Box" legislation and are working to bring together other impacted folks to work alongside us at the statehouse in fighting for criminal justice reform. **Sign up to engage at: <https://www.acluidaho.org/en/campaigns>**
2. If you're interested in community lobbying in support of our criminal justice reform legislation, we encourage you to check out our **Lobbying 101 toolkit and signing up for action alerts at <https://www.acluidaho.org/en/act>** (Stay Informed) so you can partner with us during session.
3. If writing is your preferred method of engagement, we're also working on a letter to the editor campaign to draw attention to the ongoing need for smart criminal justice reform. **Email us at [kgriesmyer@acluidaho.org](mailto:kgriesmyer@acluidaho.org)** for talking points and contact information for papers across the state.
4. As always, **keep an eye on our website [acluidaho.org](https://www.acluidaho.org)** for ongoing updates about our legislative work and criminal justice priorities. Your partnership in fighting for freedom is key to securing liberty and justice for all Idahoans.



## **Harmful Secrets: The Idaho Department of Corrections is Keeping Us from the Truth About its Lethal Injection Drugs. We're Headed to Trial**

Molly Kafka, Community Lawyer-Organizer Fellow

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In the last half-century, the State of Idaho has carried out just three court-ordered executions, all by lethal injection. The public still does not know where the drugs used in these executions came from, how potent they were, how their quality was assured, anything about their purity, sterility, stability, or expiration dates, or anything about the reputability, safety record, compliance or criminal history of the drugs' suppliers.

In January 2011, the only U.S. supplier of pentobarbital, a primary lethal

injection drug, prohibited its use in executions. Two weeks later, the only U.S. producer of sodium thiopental (also known as Pentothal), a pentobarbital substitute, announced it would no longer make the drug. By that spring, the United Kingdom had banned all exports of sodium thiopental to the U.S. Because there is no longer any well-known reputable vendor for lethal injection drugs, states have turned to even shadier sources. That proved difficult, so Idaho and other states responded by exploring black market foreign suppliers.

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So, what exactly is the Idaho Department of Correction hiding? That’s the question Professor Aliza Cover, ACLU of Idaho’s client, is asking after months in court trying to get IDOC to turn over information about its lethal injection drugs.

Aliza Cover is a law professor. One focus of her scholarship is the death penalty

and the role of the public in shaping the meaning of the Eighth Amendment. Professor Cover submitted a public records request to the Idaho Department of Corrections (IDOC) in September 2017. She requested information about the lethal injection drugs used in the executions of Paul Ezra Rhodes and Richard Leavitt in 2011 and 2012. The information she requested would require IDOC to disclose the source of its lethal injection drugs. IDOC refused to disclose the source.

This February, with the ACLU of Idaho representing her, Professor Cover filed a petition in court to force IDOC to disclose the lethal injection records she requested. We went to court in April and argued that IDOC was not justified in refusing to disclose the records Professor Cover asked for.

In May, the Court issued an order agreeing with us. Rather than comply

with the order, IDOC asked the Judge to reconsider her decision and grant a trial. After a hearing in July, the Court agreed for technical, procedural reasons to hold a trial before issuing its final decision.

It’s important to note that the Court has agreed with us on the key issues throughout this case. Even though the Court agreed to hold a trial before making a final decision, it did so only on procedural grounds, not because it agrees that IDOC can withhold the records.

Trial offers an interesting opportunity to highlight IDOC’s historical practice of shielding the public from the truth about how it acquires lethal injection drugs. Professor Cover has consistently stated throughout this case that it is the public who needs to know how the state carries out its most severe responsibility—the death penalty.

The public interest in disclosure of the source of Idaho’s lethal injection drugs could not be higher. The public needs to know whether Idaho’s drug suppliers have been sanctioned by regulators and whether they have complied with FDA and state regulations. The public needs to know whether Idaho officials have political, personal, or financial ties with the drug suppliers. Considering the high cost of the death penalty, the public needs to know whether the State is spending taxpayer money wisely and whether Idahoans are paying for illegal drugs that could botch future executions.

A trial will be the perfect stage to peel back the layers of secrets IDOC has kept over the past 7 years. The public will finally have its chance to determine for itself whether the state is truly acting in a manner the public finds acceptable. We hope the days of IDOC getting away with, “Just trust us!” are nearly over.

## 25 YEARS IN IDAHO

**1993**

ACLU of Idaho receives its official affiliate and funding status from the national office.

**1994**

ACLU and Planned Parenthood lawsuit expands the availability of abortions to Medicaid eligible women.

**1997**

The Secretary of State attempted to add political messages to ballots. ACLU sued and the Idaho Supreme Court agreed that the law invaded the sanctity of the ballot box by forcing government sponsored speech.

**1999**

ACLU and Planned Parenthood lawsuit immediately defeats Idaho law passed that banned “partial birth abortions.”

**2002**

Following 9/11, the ACLU produced a brochure to help those at risk of becoming innocent targets of the government investigations. The brochure was published in 8 languages and was our most popular brochure to date.

**2004**

ACLU opposed bill that would require a ten commandment monument erected in the Capitol rotunda and the proposal was rejected.

**2005**

The ACLU and Planned Parenthood joined forces once again fighting back Idaho’s third attempt to enforce an extreme and dangerous abortion law requiring parental consent for teens under 18.



“Join us. Stand with us; everyone plays a part.”

SHORT UPDATE

## Addressing Issues from **All Angles**

Ingrid Andrulis, Intake and Investigations Manager

The ACLU of Idaho is fortunate to have a few more folks on the team to help with the increase in correspondence (“Intakes”), which have doubled since last year. Of course, more help is always needed.

Our public defense litigation is ongoing, the focus being support for our public defenders which have a ripple effect on support for our communities, because no one lives in a vacuum. We have a very high incarceration rate in Idaho and realize that we all have to help uplift each other instead of being discouraged.

It’s a group effort as none of us can make the changes alone.

The ACLU has been looking into criminal justice reform, out of state incarceration and mental health in our communities and bringing back “good time” and other alternatives to building more cages. Our policy director Kathy Griesmyer is on the pulse of changes and information; we have been attending legislative meetings concerning justice reinvestment; IDOC Board meetings and speaking with legislators regarding prison moves, sentencing, public defense, mental health, and “ban the box.”

## 25 YEARS IN IDAHO

### 2010

With our national office, a class action federal lawsuit was filed against Idaho Correctional Center (ICC) and for-profit company Corrections Corporation of America (CCA) charging that officials promote and facilitate a culture of rampant violence. Their failure to protect prisoners and discipline guards led to gross abuse, carnage and suffering.

### 2011

A massive advocacy and organizing campaign to pass nondiscrimination ordinances across Idaho was launched. 13 ordinances have since been passed in cities across Idaho.

### 2012

Class action lawsuit filed against the Idaho Department of Health and Welfare on behalf of adults with developmental disabilities requesting the department disclose the trade secret formula they were using to severely cut funding for services.

### 2014

Idaho’s constitutional ban on same-sex marriage was declared illegal and in violation of equal protection and finally same sex couples could wed in Idaho.

### 2015

Class action lawsuit filed against the State of Idaho for the broken public defense system. The current system deprives thousands of Idahoans their Sixth Amendment right to adequate legal representation and withholds resources needed by public defenders to effectively represent their clients.

### 2017

With help from the ACLU, over 600 community members showed up in unity to protest an ICE contract with the Jerome County Jail that would create fear and facilitate the deportation of undocumented immigrants. The contract was dropped.

*Keep fighting and standing with us.*

*Keep protesting, keep showing up at events and please continue to protect civil rights and liberties in Idaho.*

## Board of Directors Elections

Each year our Board Development Committee carefully considers the applications of potential board members to join the group of people who govern and direct the Idaho affiliate of the ACLU. If you would like to be considered for nomination by the Board Development Committee, you must be a member in good standing and submit a brief statement of interest.

Nominations may also be submitted by petition. Nomination petitions must include a statement of interest with a short statement of petitioner's background and qualifications and be signed by ten (10) current ACLU of Idaho members that includes the name and address of the nominee. The submissions must be received in the ACLU of Idaho office at PO Box 1897, Boise, ID 83701 by December 5, 2018. This information will be summarized and included on the ballot to the same extent as is such information of persons nominated by the nominating committee.

Members of the ACLU of Idaho Board of Directors serve three-year terms and are voted in by the membership. This year the election will be conducted online. In December, all members will receive a postcard in the mail with voting instructions and a unique code to enable secure voting. You will also have the option to request a paper ballot from the ACLU of Idaho office. The election results will be announced at the Annual Membership Meeting on January 30, 2018.

For more information on how to become a member, or if you do not receive your postcard by the end of December, please contact our office at (208) 344-9750 ext. 1200 or at [acollins@acluidaho.org](mailto:acollins@acluidaho.org).

## What's Coming Up!

Interested staying informed on the ACLU of Idaho? Sign up to receive our email-alerts at [www.acluidaho.org](http://www.acluidaho.org). We send out action alerts, event information and other statewide information from the ACLU community.

On our website, You'll also find upcoming ACLU events and news, in addition to all of our digital resources and Know Your Rights Materials

### Follow us on social media!

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-  [twitter.com/acluidaho](https://twitter.com/acluidaho)
-  [@acluidaho](https://instagram.com/acluidaho)

### Upcoming:

-  **DECEMBER**  
ACLU of Idaho 25th Anniversary Dinner
-  **JANUARY**  
ACLU of Idaho Annual Membership Meeting

## Learn more about how to support the ACLU of Idaho!

For more information or to charge your contribution to a credit card, please contact [admin@acluidaho.org](mailto:admin@acluidaho.org) or call 208-344-9750.

### Donate Online

Go to [www.acluidaho.org](http://www.acluidaho.org) and click on the donate tab

### Write a Check

To the: ACLU of Idaho Foundation with the Remittance envelope enclosed

### Renew Your Membership

National ACLU will send you a reminder when it's time to renew

### Become a Monthly Sustainer

Send back the remittance envelope indicating your monthly support

### More Ways to Support

Estate Giving, Stock Options, Planned Giving, and Bequests

THANK YOU FOR YOUR SUPPORT AND MEMBERSHIP,  
YOU MAKE IDAHO A MORE FREE, EQUAL AND JUST STATE.



Idaho

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