

## Partnering with The Bronx Defenders to Stop Abuse, Unconstitutional Practices

New York police seize cash, phones, and other personal property from hundreds of thousands of people arrested each year, an overwhelming majority of whom were charged with only low-level misdemeanors. Now, the DKT Liberty Project and the Bronx Defenders are fighting back. With over 250 advocates and attorneys on hand, The Bronx Defenders provides legal representation to more than 30,000 low-income individuals each year.

Seized cash in amounts as little as \$50 can make the difference between a family eating and going

hungry. A seized car can sometimes make getting to work almost impossible. Every person detained — even if the arrest leads to complete dismissal — must overcome countless obstacles to retrieve his or her belongings. In most instances, claimants can't get their property back.

The DKT Liberty Project is providing financial resources to The Bronx Defenders to help beef up its impact litigation team and add a new top-flight lawyer, Niji Jain, who will further the organization's efforts to help people retrieve their property. The Bronx Defenders has



*Pictured from Left: Niji Jain, Johanna Steinberg, Adam Shoop, and Samantha Cohen from The Bronx Defenders meeting with AC Bushnell of the DKT Liberty Project.*

filed a class action lawsuit challenging the NYPD's practice of retaining people's property long after a case is over, for example. In a separate lawsuit, the organization has asked the NY State Supreme Court to compel the NYPD to publicly account for why

it keeps so much money from low-level arrests. With the DKT Liberty Project's support, The Bronx Defenders is also exploring potential new impact litigation, as well as ramping up challenges to improper property seizure in individual cases.

## Liberty Project Intervenes, Government Drops All Charges

In August of 2015, Paul Jones and his 19-year-old son, Grayson, were driving from Georgia to California when they were pulled over by the California Highway Patrol on Interstate 80 near Truckee, California. The officer alleged that their car was "straddling the white line" on the right-hand side of the road. The police video did not show any such activity.

Once the stop was made, the Highway Patrol officer called in a "drug dog", and it allegedly alerted to the presence of drugs, which gave the officers probable cause to search the vehicle. In the rear of the hatchback, the officers discovered a carry-on suitcase containing \$489,000 in cash.

Paul and Grayson were separated and questioned

without Miranda warnings. They both said they were on a father-son trip to California, looking to buy property, as Grayson was getting married in May and starting summer classes near their home at the University of Georgia. The Joneses said it was family money to buy property, and that the Joneses own several rental homes in and around Rome, Georgia.

The money was seized by the police under civil forfeiture laws, and not long thereafter, they were each charged with a felony as well for possession of money in excess of \$100,000 for the unlawful purchase and sale of a controlled substance.

The Joneses were unable to pay for legal services

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## Teaming Up to Provide Lawyers for Detained Immigrants

The Liberty Project is partnering with a law firm, Jenner & Block, on a new project aimed at providing crucial legal representation to detained immigrants. Throughout the United States, more than 40,000 immigrants are jailed while facing deportation proceedings, often for many months. The clear majority — approximately 86% of them — do not have a lawyer.

Most of these immigrants have no criminal history, and thousands may have legitimate claims for political asylum or other immigration relief. However, because there is no “public defender” system for immigrants, most detained immigrants are denied access to counsel and, as a result, do not even attempt to make an application for relief



*Lindsay Harrison is a lawyer with the firm Jenner & Block.*

from deportation. Having a lawyer in these cases makes a tremendous difference: immigrants in detention are twice as likely to obtain relief if they are represented by a lawyer.



*The Calhoun County jail near Battle Creek, MI.*

Accordingly, the DKT Liberty Project and Jenner & Block are partnering to pilot a project at a detention center at the Calhoun County jail near Battle Creek, Michigan

— the largest facility of its kind in the state. The project, led by attorney Lindsay Harrison, will screen immigrants at the facility to find out whether they may have claims for relief, and will provide lawyers at no charge in eligible cases.

This facility was specifically chosen because the immigrants detained there presently have very little access to counsel. The goal of this program is to provide a lawyer to every immigrant at the detention facility who needs one.

A further long-term goal of this project is to establish a working model that can be replicated by other firms and organizations at detention facilities throughout the country.

## Feds Seize \$24,000 at San Francisco Airport - Liberty Project Helps Get it Back

Ramon Juma flew from Asheville, NC to San Francisco. After he de-planed, federal authorities from the Drug Enforcement Agency searched his carry-on luggage and seized \$24,000 in cash from his bag. Juma was never charged with a crime and, without his cash, did not have the funds to hire a good lawyer to try and get his money back.

Ramon is a professional gambler who also works as crew at music festivals. The DKT Liberty Project heard about his case and agreed to support him by paying his legal fees.

Edward Burch of David Michael Law in San Francisco agreed to intervene with an Assistant US Attorney and their discussions quickly resulted the return of Juma's entire \$24,000. Without legal help, Juma would have probably lost it all.

HOUSTON★CHRONICLE

## Houston Chronicle: Civil Asset Forfeiture Needs Stricter Rules



If a dangerous street hoodlum demands and then flees with your wallet, the police will call that robbery. But if a police officer seizes your cash, car or other property on the mere suspicion that it is

somehow connected to criminal activity – and without ever convicting or even charging you with a crime – the police will call that a legal civil asset seizure.

Click on the Houston Chronicle image above to read a PDF of the full article published by the Chronicle.

## Liberty Project Fighting Illegal Jailing of Indigent Citizens

The DKT Liberty Project is partnering with the Southern Center for Human Rights (SCHR) in Atlanta to push back against the illegal jailing of poor people by the Recorder's Court in Columbus, Georgia, which is part of the local court system. The jailing of people who cannot pay fines and fees is often referred to as "the criminalization of poverty."



*Elizabeth King is one of two women suing the City of Columbus, GA with support from the DKT Liberty Project.*

The Liberty Project is paying the legal fees in a class action federal lawsuit on behalf of two women.

One is Elizabeth King, an African-American

woman who suffers from schizophrenia. Her sole income is a social security payment of \$900 per month. King appeared before the court on a charge of shoplifting food

from a Piggly Wiggly supermarket. The court's only public defender stood with King, although he had never met her prior to that time and did not know anything about

her or her case. She pleaded no contest and was sentenced to 30 days plus payment of \$347.50, one weekend of community service, and 12 months of supervised probation and payment of \$50 per month. No one inquired into King's limited income or mental health. King was arrested again for taking food from a Piggly Wiggly. The judge asked why she took the food. King answered, "To eat." With no further inquiry, the judge sentenced her to 120 days in jail.

Keiona Wright is a

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## Supporting Innocent Store Staff in Norman, Oklahoma Case



*Photo Credit: Steve Sisney, The Oklahoman Archives*

In 2016, local police in Norman, Oklahoma raided The Friendly Market, taking glass smoking pipes and all of the cash in the register on the grounds that they had violated OK's drug paraphernalia statutes. These actions eventually forced the store out

of business. Despite the state acknowledging that no illegal substances of any kind were present in the store, District Attorney Greg Mashburn charged store owner Robert Cox and store manager Stephen

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**COLUMBUS, CONTINUED**

single mother of five children. She was sentenced to 140 days in jail following a hearing relating to her inability to pay traffic ticket fines. Wright, who worked at a factory making near minimum wage, had previously been sentenced to five years on private probation supervision, plus \$4,719.25 in fines and fees for traffic violations. At her hearing, the judge asked Wright why she had not paid her fines. Wright said she had made a few small payments, but had just had her electricity shut off because she could not afford her light bill. The judge told Wright that he did not “want to hear about her problems.” Without further questioning, the judge sentenced Wright to 140 days in jail or payment of \$2,079.25.

Lawyers for King and Wright expect to show that the women were jailed in violation of their

constitutional rights, including their right to a lawyer. Furthering the injustice, King’s and Wright’s attorneys cannot access court files that would allow them to fully investigate their cases because the Clerk of the Recorder’s Court has refused to produce any court records, which is a violation of federal and state law as well as the Georgia Open Records Act.

These records are essential to protecting constitutional rights. SCHR is therefore suing the court to obtain these records which the court is legally required to keep.

This case, King and Wright v. Consolidated Government of Columbus, Georgia, is challenging the Recorder’s Court’s longstanding policy of refusing to provide public court records to citizens. This court collects \$3.5 million a year in fines, mostly from poor people. Over 60,000 people a

year pass through this court, but there is only one public defender assigned to help those who appear.

The failure to provide court records has also long frustrated efforts to challenge the litany of constitutional violations that occur daily in this court, including:

- Denying indigent people the right to effective assistance of counsel.
- Violating Georgia law by fining people with significant financial hardship.
- Routinely issuing “pay or stay” sentences that require poor people to go to jail only because they cannot pay a certain amount of money.
- Routinely jailing indigent people for failure to pay fines and fees without inquiring into their ability to pay or considering alternatives to incarceration, in violation of the state and federal

constitutions and Georgia law.

“The tradition in this country has always been that criminal court records are presumptively open to the public,” said SCHR attorney, Sarah Geraghty. “The Defendants’ policy of barring access to Recorder’s Court case files is a significant barrier to people who wish to challenge their treatment in the Recorder’s Court.”

Debtors’ Prisons, an ancient European practice, were banned in the United States under federal law in 1833. In *Bearden v. Georgia* (1983), the US Supreme Court made clear that jailing indigent debtors was unconstitutional under the Fourteenth Amendment’s Equal Protection Clause. The Southern Center for Human Rights and the DKT Liberty Project are working to stop these illegal practices that still go on today.



Our sister organization is a social marketing nonprofit working in Latin America, Africa and Asia. Find out how DKT International is improving reproductive health at [dktinternational.org](http://dktinternational.org)

# 'Romeo and Juliet' Case Ends Well

Seventeen-year-old Austin Yabandith was attending high school in Superior, Wisconsin when he fell in love with a 15-year old girl named Moon (not her real name). They had a consensual relationship for a year. During this time, they had sex and also took photos of each other. At one point, Moon sent a picture of herself to another boy, and it got circulated to a few. This came to the attention of the police school liaison officer who notified the police, and they arrested Austin.

Forty-three percent of high school students have sex, often around the age of 15. Many states have "Romeo and Juliet" statutes that exempt teens from being charged if they are less than 4 years apart in age. In Wisconsin, there are no such statutes, and further, a 17-year-old there is tried as an adult.

Austin was charged with three felonies: Sexual assault of a child under 16, punishable by up to 40 years in prison and a \$100,000 fine; sexual exploitation of a child by filming a person under 18 in sexually explicit conduct, punishable up to by 12 ½ years in prison and a \$25,000 fine; and possession of child pornography, photographs and recordings of sexually explicit conduct of child under 18, punishable by up to 3 ½ years in jail a \$10,000 fine. Additionally, Austin would be registered as a sex offender for 25 years. (The Sex Offender and Registration Act (SORNA) was intended to protect communities from sexual predators – but Austin Yabandith was hardly that.)

The DKT Liberty Project stepped in to help by engaging a lawyer for Austin and paying the legal

fees that his single mother could not afford. Attorney Robin Shellow of Milwaukee, WI undertook the process of saving a young man from having his life ruined for behaving as so many teens do.

Attorney Shellow met with Austin and his mother and hired a psychiatrist to do further interviews with Austin. She entered into negotiations with the District Attorney in Superior, WI with the goal of trying to keep Austin out of jail. Through excellent communication, advocacy, and tenacity, the case was resolved as follows: Austin pleaded to two misdemeanors, with no imprisonment or fines, and two years of probation, with no registration as a sex offender. Thanks to Shellow's work, Austin has returned to school and is hoping to attend college. He now has a chance at a normal life.

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## **FRIENDLY, FROM PAGE 3**

Tyler Holman with felony counts of concealing proceeds of illegal drug activity and misdemeanor possession of drug paraphernalia. Cox and Holman are scheduled for trial in early May which is estimated to last one week or more.

The DA's office also filed possession of drug paraphernalia charges against two store clerks, Max Walters and Cody Franklin in retaliation for the store's decision to fight the charges against them and recover the seized money and merchandise. In late 2016, Walters was

tried in the Cleveland County District Court resulting in a hung jury, and Franklin was tried in January of 2017 resulting in an acquittal. Both misdemeanor trials lasted an unprecedented three days at an unknown, but presumably substantial cost to taxpayers.

The Liberty Project is paying the legal fees for attorneys Brecken Wagner and Blake Lynch of Wagner & Lynch to bring this issue to justice. Law enforcement should stop wasting time and money trying to suppress these legal products and focus on real crime instead.

## Marijuana Legalization Sweeps to Major Election Victories

The 2016 Election marked major gains in the movement for recreational marijuana legalization, scoring victories in California, Massachusetts, Maine, and Nevada. California led the way by a 12-point margin, as over 5 million people voted “yes” in the Golden State. The only loss on election night was in Arizona, where the effort lost by 4 points.

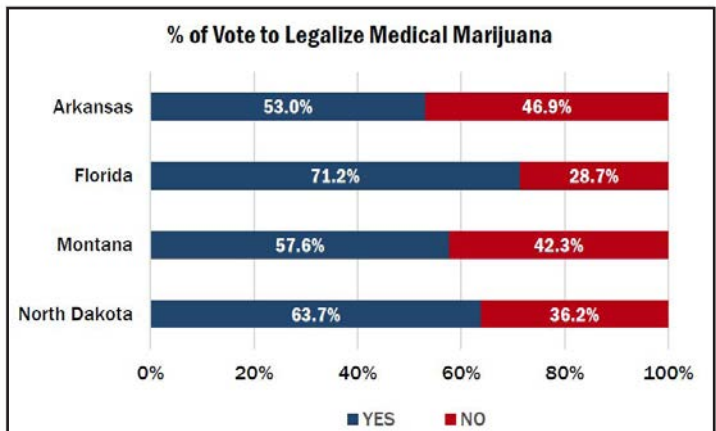
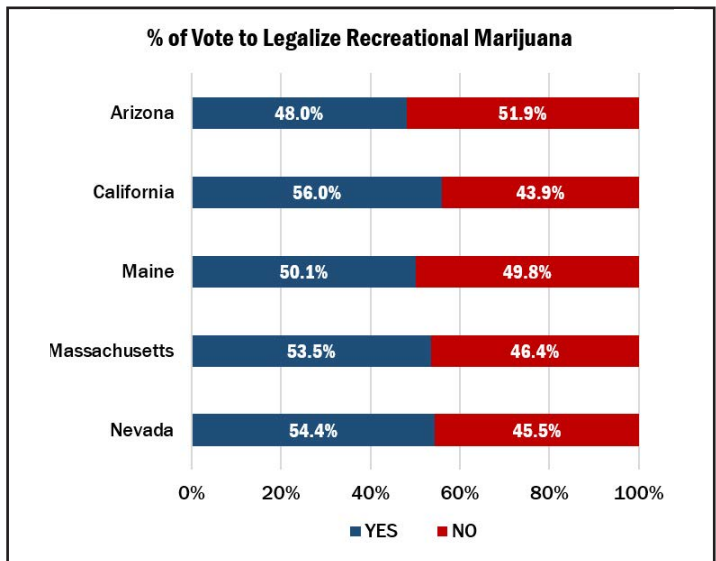
Another bright spot was the approval of medical marijuana initiatives in four states: Arkansas, North Dakota, and Montana, as well as Florida, where voters approved medical marijuana by a major margin of nearly 4 million. The DKT Liberty project is proud to have helped support these initiatives.

The victory for full legalization in California was a game-changer for the nation. Historically, California has often led the way in policy changes. Ethan Nadelman who heads the Drug Policy Alliance said: “The California initiative, with its extensive sentencing reform and other social justice components, its sophisticated licensing, public health, and tax revenue allocation

provisions, its endorsements by the statewide medical and nurses’ associations as well as environmental and civil rights groups and more, will represent the new gold standard for how to legalize marijuana responsibly.”

Now, citizens who potentially faced years in jail are sometimes facing days. Omar Figueroa, a Sebastopol attorney specializing in cannabis, said one of his clients was looking at up to nearly five years in prison for felony transporting of pot and possession for sale, as well as a related probation violation. After Prop. 64, Figueroa said Sonoma County prosecutors agreed to an infraction charge, with no jail and no probation.

Commenting on the election results, Rob Kambia of the Marijuana Policy Project said: “Most voters do not think otherwise law-abiding citizens should be criminalized for using a product that is much safer than alcohol. They want marijuana to be sold inside regulated, taxpaying businesses, not on the streets, where sales enrich cartels and drug dealers. There is a general consensus that



law enforcement should be fighting serious crimes rather than enforcing failed and deeply unpopular policies.”

As a result of this election, 21% of US citizens—68,042,000 people— now live where marijuana is legal. The latest Gallup poll shows that 60% of Americans favor legalization of recreational marijuana. Twenty-nine states plus the District of

Columbia now permit medical marijuana. A CBS News Poll shows 84% of Americans favor legalization of medical marijuana.

The DKT Liberty Project will continue to support marijuana legalization as part of its efforts to end the government’s effort to “win” an unwinnable war against substances which themselves do far less harm than the efforts to suppress them.

**JONES, FROM PAGE 1**

as their life savings were now in a government bank account. Local Truckee attorneys Ravn Whittington and John Ward took the case and the DKT Liberty Project agreed to pay their legal fees.

After a year and a half of attorney negotiations, the California authorities finally decided to drop the criminal charges against Paul and Grayson Jones and the threat of a felony conviction is now gone.

Whittington sent this note to the DKT Liberty Project:

Dear A.C.,

*I would like to thank you, Phil, and the entire DKT Liberty Project organization for the knowledge, kindness, and support you have extended to Paul, Grayson, and myself over the course of the last two years. Without the Liberty Project's support, it is unlikely that Paul and Grayson would have obtained a full dismissal of the criminal charges that were unjustly brought against them. Instead, as is the unfortunate reality for many, Paul and Grayson would*

*have likely been forced to accept criminal liability in order to receive a pittance of their unlawfully seized assets. Now the government is without the leverage of a criminal case. Paul and Grayson are free to pursue a full recovery of their money.*

*You should know that when I tell people about DKT's involvement in this case, I am usually met with disbelief. I am often asked, "Why would DKT involve itself?" Or "What's in it for DKT?" People find it hard to believe*

*that there exists an organization willing and able to challenge governmental overreaching on both a policy and individual level. To me, that disbelief speaks bounds for DKT. You are out there providing support where others do not, helping those who cannot help themselves – those who have neither the resources nor the luxury of time to achieve systemic policy change. For that service, both broadly and in our particular matter, I commend and thank DKT Liberty Project.*



## Support the DKT Liberty Project by Contributing

Make your tax deductible donation by writing a check payable to DKT International. Please write, "Liberty Project" in the memo section and mail your check to:

**DKT Liberty Project  
1156 15th St. NW, Ste. 700  
Washington, DC 20005**