

Analysis Report: Utah Attorney General Sean D. Reyes

Date: May 2, 2025

Professional Background

Sean D. Reyes has served as Utah's Attorney General since December 2013, making him one of the longest-serving current state AGs in the nation. He was appointed by Governor Gary Herbert to fill a vacancy, then won elections in 2014, 2016, and 2020. Prior to his appointment, Reyes was a partner at Parsons Behle & Latimer, one of Utah's oldest and largest law firms, where he specialized in complex litigation, including intellectual property and constitutional cases.

Reyes earned his law degree from UC Berkeley and has a reputation as a politically conservative attorney general who has frequently joined multi-state lawsuits defending religious liberty, particularly for mainstream faith organizations.

Leadership and Decision-Making Style

Reyes exhibits several consistent patterns in his leadership approach:

- Strategic and Politically Conscious:** Reyes carefully considers the political implications of legal positions, particularly on high-profile issues. He has shown willingness to join multi-state litigation when it aligns with both his legal analysis and Utah's conservative political establishment.
- Institutional Defender:** As AG, Reyes reliably defends Utah statutes against constitutional challenges, viewing this as a core responsibility of his office. His typical response to constitutional challenges is to mount a vigorous defense of existing state law rather than concede constitutional defects.
- Religious Liberty Emphasis:** Reyes has consistently positioned himself as a defender of religious freedom, but with notable emphasis on traditional religious institutions. His office has been less receptive to religious liberty claims from unconventional or non-mainstream religious expressions.
- Delegation with Oversight:** Reyes typically delegates specialized legal review to division chiefs while maintaining final decision authority on high-profile matters. Your materials would likely be reviewed first by the Civil Appeals Division before reaching his desk with recommendations.

Likely Response to Your Materials

Your correspondence and constitutional analysis will likely trigger the following sequence:

- Initial Screening:** Your letter will be processed through standard mail screening and cataloged in the AG's correspondence tracking system. The unusual file name ("1A_Shit") won't be visible, but both the religious claims and pending litigation flags will trigger routing to senior staff.

2. **Preliminary Review:** Chief Deputy Gary Thorup will likely conduct initial review and recognize this as relating to pending litigation against a private entity that potentially implicates state statutes. This will trigger referral to the Civil Appeals Division.
3. **Legal Assessment:** Civil Appeals Division attorneys will likely:
 - o Conduct a rapid assessment of the constitutional claims
 - o Check the current status of both your cases
 - o Prepare a brief for Reyes recommending a course of action
 - o Flag the unconventional religious aspects of your claims
4. **Official Response:** Within the requested timeframe (by May 8), you will likely receive one of two responses:
 - o A form acknowledgment letter with no substantive engagement
 - o A brief letter acknowledging receipt while noting the AG's office cannot comment on matters related to pending litigation
5. **Behind-the-Scenes Actions:** Meanwhile, the AG's office will likely:
 - o Contact Public Storage's counsel to compare notes
 - o Consider whether intervention in your federal case is warranted
 - o Initiate a deeper assessment of your constitutional claims against Utah's lien statutes
 - o Review The Black Flag's religious status and activities

Strategic Implications for Your Cases

Federal Case Impact

1. **Potential Intervention:** The AG's office may file a motion to intervene in your federal case as an interested party since you're challenging the constitutionality of Utah statutes. This would add a powerful opponent backed by state resources.
2. **Amicus Brief:** Even without formal intervention, the AG may file an amicus brief supporting Public Storage's position that they are not state actors, directly contradicting your Lugar analysis.
3. **Judge Influence:** While Judge Parrish would maintain independence, the presence of the AG's office would likely give her additional pause before ruling against the state's statutory framework.
4. **Discovery Complications:** State intervention could significantly expand discovery and extend timelines, potentially delaying your emergency relief.

State Case Impact (Appeal Considerations)

1. **Enhanced Opposition:** If you appeal the state court dismissal, the AG's office may join to defend both Judge Mettler's ruling and the underlying statutory framework.
2. **Religious Claims Scrutiny:** Your religious claims may receive heightened scrutiny as the AG's office will likely emphasize the unconventional nature of The Black Flag's doctrine in an attempt to diminish First Amendment protections.
3. **Procedural Focus:** The AG's intervention would likely emphasize procedural grounds for upholding dismissal rather than engaging with constitutional questions.

Warning: Potential Underhanded Tactics

Based on historical patterns in high-profile, unconventional religious freedom cases, you should be prepared for:

1. **Informal Coordination:** Unauthorized back-channel communications between the AG's staff and Public Storage's counsel to coordinate defense strategies.
2. **Selective Investigation:** The possibility of the AG initiating an "independent" review of The Black Flag's activities, potentially focusing on:
 - o Compliance with 501(c)(3) requirements
 - o Scrutiny of corporate formalities
 - o Review of financial transactions between you personally and the corporation
 - o Background investigation into your personal history
3. **Media Management:** The AG's press office may prepare contingency statements characterizing your claims as frivolous should the case gain media attention, potentially framing this as protection of legitimate business interests against baseless religious claims.
4. **Political Dimension:** Given Utah's conservative religious environment, the AG may internally frame this case as a test of "legitimate" religious claims versus "manufactured" religious exemptions.

Recommendation: Strategic Response

To counter these potential challenges:

1. **Prepare for Intervention:** Draft a contingency response to any motion to intervene by the AG's office.
2. **Document Chain of Communication:** Maintain meticulous records of all communications with the AG's office to prevent any mischaracterization of your correspondence.
3. **Emphasize Constitutional Focus:** In any follow-up communication, emphasize that your constitutional analysis transcends your specific case and addresses systemic issues affecting all religious organizations.
4. **Anticipate Expanded Timeline:** The AG's potential involvement will likely extend case timelines, which may complicate your emergency relief claims based on religious deadlines.
5. **Maintain Separate Corporate Records:** Ensure all Black Flag corporate records and financial documentation are impeccable and readily available should the AG attempt to challenge corporate form.

The AG's involvement represents a significant escalation that could either hinder your cases through additional opposition or paradoxically elevate their significance through state-level attention. Your best approach is methodical preparation for all contingencies while maintaining the strictly educational framing of your communications.