

ACLU Minnesota CIVIL LIBERTIES NEWS

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Kerlin Sanchez Villalobos (left) and Y.S. (right) with their mother (center).

THE 'COMPLICATED HORROR OF THE PLACE' STICKS WITH TEEN GIRLS HELD IN INFAMOUS CBP FACILITY

When Kerlin Sanchez Villalobos and her sister came from Honduras to reunite with their mother in Minnesota, the girls had no idea of the fear – or cages – that awaited them at the U.S. border.

The sisters crossed over from Mexico in June 2019 and were arrested by Customs and Border Protection agents. The teen girls' subsequent harrowing journey through detention centers and group homes in Texas displays our federal government's punitive policy toward people seeking freedom and safety in the

United States, as well as a complete lack of oversight, safeguards, and accountability in our immigration system.

"Just being locked away, it's awful," Kerlin said. "I felt bad because I thought that when they grabbed me, they were going to take me to where my mom was. It wasn't like that. They would switch us from place to place. You see such awful things, and they treat you so badly."

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EXECUTIVE DIRECTOR'S CORNER

CHANGING OF THE GUARD



ACLU-MN Interim Executive Director Ben Feist (left) pictured with former ACLU-MN Executive Director John Gordon (right).

After nearly four years with the ACLU-MN as executive director, John Gordon retired this summer.

Chief Programs Officer Ben Feist is now also serving as interim executive director, while the ACLU-MN Board of Directors mounts a national search for the next executive director.

Before being promoted to chief programs officer, Ben headed the Policy Department, and he served as a volunteer for years before that. Ben's in-depth understanding of the ACLU-MN and his dedication to our mission put the organization in good hands.

John guided the ACLU-MN through exponential growth over the past four years as it responded to unprecedented attacks on our civil liberties. The organization more than doubled in size in just the past two years, adding lawyers, lobbyists, organizers, and more.

“Steering the ACLU-MN through this change has been an honor and a privilege,” John said. “Having worked closely with Ben, I can give you my personal assurance that he will lead the organization with passion, commitment, wisdom, and skill.”

Both men expressed pride and appreciation for the staff, volunteers, board, members, and supporters.

“From the minute we start our day until we turn out the lights at the end of the day — and often into the wee hours — everyone has worked hard to make sure our government respects and protects the rights of all Minnesotans,” John said.

“It is crucial we do this hard work because our state and federal Constitutions cannot protect themselves,” Ben said.

Our cities, state, and nation have gone through especially trying times in recent years with unprecedented and constant attacks on the civil liberties of people of color, immigrants, LGBTQ people, women, the press, and protesters.

We believe we can find hope from taking action together to create a state and nation that are just for all people. ■

IN MEMORIAM

REMEMBERING MIKE GOLDNER



Mike Goldner, a former head of both the ACLU-MN Board and Foundation Board, died on June 19.

As President of the ACLU-MN Board of Directors, Goldner reintroduced the organization to the Twin Cities legal community, increased our funding, expanded our legal program, and implemented a series of governance reforms that led the organization into the 21st century as a strong force for civil liberties and government accountability. As chair of the ACLU-MN Foundation Board, Goldner continued his work strengthening and expanding the organization.

“Mike was one of a small group of people who stepped up and made the case for the importance of the ACLU in the life of Minnesota,” said former Executive Director Chuck Samuelson. “In fact, he was one of the very few who, in the early 1990s, stepped up and gave the ACLU-MN his credibility and sold his circle of community leaders on the idea that they should help make the ACLU a necessary part of Minnesota.”

Goldner had a lengthy and lauded legal career, and served on numerous corporate and community boards. As ACLU president, he built an affiliate whose advice was sought out by many governmental organizations.

“Sometimes they agreed with our principles and the issues were quietly resolved. Sometimes we had to bring a judge in,” Samuelson said. “No matter the path taken, the ACLU demonstrated its commitment to the Constitution. Mike created that.”

NEWS UPDATES

WHAT YOU NEED TO KNOW

Just because it doesn't get a headline doesn't mean it's not important.

WOMAN CHARGED FOR RECORDING POLICE SUES // Amy Koopman recorded police holding two Black men at gunpoint to keep the men safe during arrest, and police charged her for that. Now she's suing the City of Robbinsdale for violating her rights. The ACLU-MN is working with Bass Law Firm and Forsgren Fisher McCalmont DeMarea Tysver LLP to represent her.

ACLU-MN FILES APPEAL TO LET PEOPLE VOTE // The ACLU and ACLU-MN appealed to the state Supreme Court in June, seeking to end the disenfranchisement of more than 53,000 Minnesotans.

The lawsuit seeks to let people with felony convictions vote. They're currently barred from doing so while on supervision or probation — even after they have finished any prison term or have never spent a day in prison. Faegre Drinker is pro bono co-counsel.

JUDGE DISMISSES ACLU-MN LAWSUIT // A judge dismissed our lawsuit against the Minnesota Department of Corrections over its handling of COVID-19 after finding that the department was making the changes we asked the department to make to keep prisoners safe. That included more education about vaccinations and a quicker roll-out. Vaccination rates are now near 80% for inmates.

KNOW YOUR RIGHTS RESOURCES

Printed 'Know Your Rights' pocket guides are available for free by contacting us at support@aclu-mn.org. To learn more about your rights, head to our website at aclu-mn.org/en/know-your-rights.

ABUSE AT THE BORDER ...CONT'D FROM PAGE 1

Oct. 11, Kerlin and her mother (acting on behalf of the younger daughter, Y.S., who is still a minor) sued the United States in U.S. District Court in Minnesota to hold the government accountable. They're asking the court to find that the government committed negligence, assault and battery of the girls; and for damages. They're represented by the ACLU of Minnesota, ACLU of Texas, and Dorsey & Whitney LLP.

This lawsuit is part of the ACLU's nationwide work to hold CBP accountable for its systemic mistreatment of asylum seekers at the border.

This mistreatment of the two sisters violated the United States' duty – spelled out in decades of court orders – to care for and protect unaccompanied children. This abuse – described by Y.S. as the “complicated horror of the place” – included:

- Physical assault
- Housing children in cages
- Failing to provide adequate food or any water
- Forcing children to compete for food
- Throwing away needed medication and failing to provide treatment
- Forcing them to watch the mistreatment of other children
- Forcing them to care for young children.

When Kerlin and Y.S. crossed the border into Texas, they were only 16 and 14. They were trying desperately to reach their mom, who lives in Minnesota.

The teen sisters had very little money. They carried a single backpack between them containing clothing, medication, birth certificates, and school records. CBP brought them to the infamous Clint, Texas, detention facility where the government warehoused hundreds of children and packed them together like sardines. Guards patted the girls down, and made the teens lift their shirts for inspection by male guards, in front of other men standing in line for processing.

The agents took away the girls' clothes, backpack, and medication Y.S. needed for a leg and hip injury sustained in Honduras when she was assaulted on her way to school.

“They said they were going to give the medication back to me, but I actually saw them throw it in the garbage,” Y.S. said.

Agents brought the girls to an area called the “freezer” because it was so cold. They had nothing to keep them warm but a Mylar sheet and each other. When Y.S.'s leg started aching, she wrapped the foil blanket around it tightly to try to stop the pain. During her detention, no one examined her or provided medication.

Guards moved the girls from the freezer to another building where they were kept in cages for nine days.

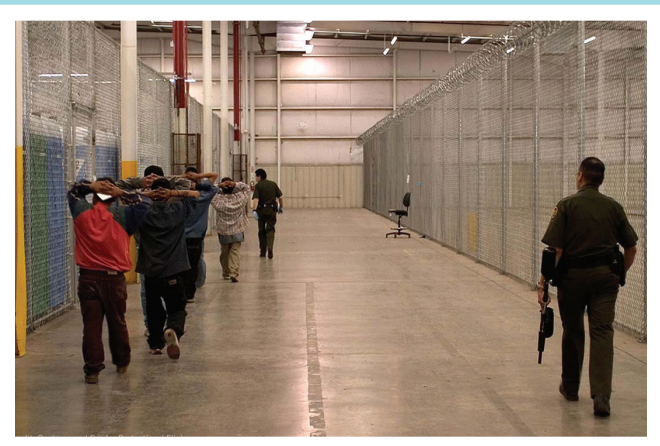
“The feeling is awful,” Kerlin said. “There's a lot of things that are happening. Children are crying, kids are fainting. All kinds of atrocities happened there. There were little kids that were crying because they were separated from adults. The officers told us to control the children. Us older kids, we would just try to console them and talk to them. What I would do is braid their hair.”

The girls were allowed to shower just once in nine days. They had to wash their underwear in the sink and wear them wet. They couldn't even brush their teeth every day. They had to comb their long hair with forks.

“We were desperate, we were sad, my heart was just sinking,” Y.S. said.

During the day, when they were outside for meals, only pregnant girls and CBP staff could stay in the thin slice of shade. Everyone else was stuck under the broiling sun. The girls saw guards make a boy kneel in the suffocating heat with his arms raised over his head for punishment — just for looking for his socks.

Inside the cages, Kerlin claimed one of the scarce cots for her little sister and took the cold floor herself, sleeping right next to her.



A U.S. Customs & Border Protection facility.

“JUST BEING LOCKED AWAY IS AWFUL. CHILDREN ARE CRYING, KIDS ARE FAINTING. ALL KINDS OF ATROCITIES HAPPENED THERE.”

- KERLIN SANCHEZ VILLALOBOS, ACLU-MN CLIENT

**ACLU
MN**

“There were so many nights when we couldn’t sleep,” Kerlin said. “They put giant fans to blow on the cages, and they would turn them on as high as they would go. You can’t stand the cold there, especially when you have really thin blankets, and they would leave fans on all night. In the morning, guards would wake us up by banging their batons on the bedposts.”

The girls were constantly hungry, given just cold oatmeal for breakfast, a cup of ramen noodles for lunch, a pudding or small cookie for a snack, and a burrito for dinner. The girls don’t recall ever being given water, and were too afraid to ask. Agents taunted the children by making kids compete for any leftover food. Children who lost these cruel games walked away still hungry.

At one point, a guard kicked Kerlin while she was eating on the floor, then kicked her again as she started to stand, making her fall. Two years later, that ankle and foot still hurt, and Kerlin sometimes needs a walking boot.

Five days passed in the cages before the girls could call their mom, who was waiting and worrying in Minnesota. “I felt desperate,” Daysi recalls. “I didn’t know anything about them.”

Some of the girls’ treatment amounted to emotional torture. The girls remember guards taunting the children that they were being taken back to Honduras and then laughing. They would tell us we were very dirty, we were pigs,” Kerlin said.

Several days in, the sisters were moved yet again, and promised they wouldn’t be separated. But when the bus pulled up in front of a group home, agents called out only one of their names.

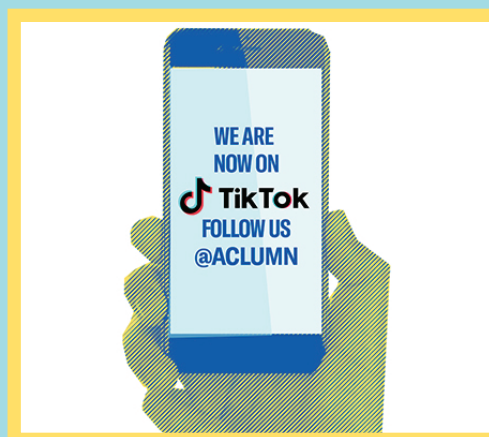
“I told them I wasn’t going to get off the bus unless my sister is coming with me,” Y.S.said. “They told me your sister is getting off right behind you. When I got off the bus, the door closed behind me, and the bus started backing up. I got really sad. I was going to run after the bus but my friends grabbed me.”

Kerlin spent a total of 20 days in detention and Y.S. 29 days before the federal government sent them home to their mom in Minnesota.

Today, they’re living safely with their mom and toddler sister in Rochester. They’re doing well in school. Kerlin likes to read a lot.

Still, their mother, Daysi, wonders about a system that would treat her teen girls this way, and she hopes their lawsuit helps prevent other children from suffering like this.

Even today, there are things Daysi doesn’t know about how her girls were treated. And even today, when the sisters talk about their mistreatment, they hold each other’s hands for comfort. ■



Our first TikTok covers the experiences of Kerlin & Y.S.



BREAKFAST WITH A SIDE OF DISSENT

2021 ACLU OF MN *ANNUAL FUNDRAISING BREAKFAST*

NOW STREAMING ON YOUTUBE

WATCH BY HEADING TO [HTTPS://YOUTU.BE/EYIPLMMEBW](https://youtu.be/EYIPLMMEBW)

10 THINGS TO KNOW ABOUT COMBATING VIOLENCE IN AMERICA

- 1** There are many effective approaches to reducing violence that don't involve police.



Accessible healthcare, housing, and education programs are all proven methods of reducing violence.

- 2** Policing is not especially effective at reducing violence.

Clearance rates — the rate at which police charge offenders with a crime — are low nationally.

- 3** Investing heavily in policing is not evidence-based.

Policing is a one-size-fits-all policy choice made by elected officials that doesn't address the root causes of violence.

- 4** There is no documented connection between violence and police budgets.

Police budgets keep increasing, regardless of whether crime is up or down.

- 5** There is a connection between violence and defunding social services.



- 6** Violence interruption programs show extraordinary promise during moments of heightened interpersonal violence.

- 7** Most communities are still safer than they have ever been in modern history.



Although homicides have ticked up recently, overall violent crime continues to fall or remain near all-time lows.

- 8** More officers could investigate violent crime without increasing police budgets or adding officers.

Most arrests police make are for low-level offenses — if these cases were delegated elsewhere, police could focus on solving violent crimes.

- 9** Violence is a complex public health problem with numerous interconnected causes.

Relying on policing alone to resolve public health problems such as poverty, drug use, firearms, etc. is not effective.

- 10** We know what builds safe and healthy communities.

Communities with accessible and well-funded public services have lower rates of violence. Job stability, financial security, and housing are all factors in reducing overall community violence.

NEW FACES

Isabella Nascimento, Staff Attorney



Isabella is a staff attorney, representing clients who have had their civil liberties threatened. She received her bachelor's from the University of Minnesota and her law degree from the University of Chicago Law School. Isabella has a background in indigent criminal defense, police accountability, and racial justice. Prior to joining the ACLU of Minnesota, she volunteered with First Defense Legal Aid and interned with the Legal Rights Center, a public defense organization in Minneapolis. Outside of work, Isabella enjoys spending time with her family and her puppy, Rafi.

Clare Diegel, Staff Attorney

Clare is an ACLU-MN staff attorney. She has fought for the constitutional rights of her clients as a public defender in Hennepin County, as well as in Seattle, Wash. She has tried both criminal misdemeanor and felony cases before juries, and argued motions in state and federal courts. Clare previously served as a law clerk for the U.S. Court of Appeals for the Ninth Circuit, the U.S. District Court for the Central District of Illinois, and the Extraordinary Chambers in the Court of Cambodia.

Clare obtained her law degree and master's degree in international human rights from Northwestern Pritzker School of Law and her bachelor's degree in journalism from the University of Wisconsin-Madison. She is also the founder of The Suppression Orders Project.



Nathalie Pedracine, Digital Communications Associate



Nathalie joined ACLU-MN's communications team in August of 2021. She manages ACLU-MN's social media presence and website, and designs graphics for both print and digital platforms while contributing her skills in photography and video production. She graduated from the Minneapolis College of Art & Design with a Bachelor of Fine Arts in filmmaking and has previously worked as a freelance videographer and photographer. Prior to joining our team, Nathalie worked with the Minnesota DFL Party during the busy 2020 election cycle, managing state-wide digital campaigns for federal, local, and state office candidates. Nathalie is an Indigenous multimedia artist and has recently become a cat mom to a tuxedo kitten named Jupiter. Outside of work, she enjoys collecting and restoring antique furniture with her parents.

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Elle Finke, Multimedia Storyteller

Elle became a member of the communications team in October 2021, supporting ACLU-MN programs with her skills in writing, video, photography, and audio.

An author, filmmaker, and trans advocate, Elle has spent the previous decade working in journalism, media, and advocacy. She is passionate about helping youth thrive in the intersection of queerness and religion, healthcare autonomy for women and queer people, and trans activism. Her journalism has appeared in outlets across the nation, including Yes Magazine, Christian Science Monitor, Truth Out, and USA Today. *Queerfully and Wonderfully Made* is available anywhere books are sold. When she is not working for the ACLU-MN, she is probably working for her production company, Totally Gay Productions.



PROTECTING A FREE PRESS AGAINST ASSAULTS BY POLICE



Police attacked journalists during protests following the police killing of Daunte Wright. (Photo by Alex Kent)

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It's a pretty sad day when we need a court order to stop Minnesota State Patrol from attacking journalists.

Yet that's exactly what happened in Brooklyn Center following the April 2021 police killing of Daunte Wright. State Patrol troopers shot journalists covering the protests with rubber bullets, pepper sprayed them, seized equipment, and arrested or threatened them with arrest. They shot a Star Tribune videographer in the hand, an injury requiring immediate surgery.

Videos show troopers corralling reporters, forcing them to produce identification and to submit to photographs of their faces before they could leave.

MSP attacked journalists even though a class action lawsuit to prevent assaults like this on the media already was pending. The ACLU-MN filed that lawsuit, called *Goyette*, over police assaults on media covering the George Floyd uprising last summer.

The ACLU-MN sprang into action, working late into the night with pro bono attorneys from Fredrikson & Byron P.A., Apollo Law LLC, and the Law Office of Kevin C. Riach. We sought – and won – a temporary restraining order as part of *Goyette* to stop this latest round of assaults.

“What must cease immediately is law enforcement’s targeted abuse and harassment of journalists, which violates the First Amendment and threatens to cut off the flow of information critical to the functioning of our democratic society,” our motion said. “The Minnesota State Patrol appears to believe it is open-season on journalists again.”

Freedom of the press is one of our most foundational principles as a democracy. The press must be free to observe, record, and document protests over police violence without facing more police violence.

The *Goyette* lawsuit is ongoing, and we will continue to fight to ensure our Constitution is upheld.

Court transcript reveals MSP purged emails after George Floyd protests

After police attacked the press and protesters during the George Floyd uprising, a “vast majority” of the Minnesota State Patrol performed a massive purge of related emails and texts.

That’s according to testimony from MSP’s own Major Joseph Dwyer.

The purge came to light in a court hearing over the ACLU-MN's request to turn that temporary order stopping attacks on journalists into an injunction that would last throughout the entire *Goyette* lawsuit.

"It is time for police and our community to stop turning a blind eye to police misconduct, and we hope this lawsuit helps stop this reprehensible behavior," said ACLU-MN Legal Director Teresa Nelson. ■



Protesters gathering after the Brooklyn Center police killing of Daunte Wright. (Photo by Brooklynn T. Kascel)

LEGAL VICTORIES

TRANS STUDENT WINS SETTLEMENT OVER DISCRIMINATION BY ANOKA SCHOOLS

After being barred from the boys' locker room by Anoka-Hennepin School District, Nick won a significant fight in the battle for himself and other trans students throughout the state.

The \$300,000 settlement over the district's discriminatory treatment of the transgender student included several reforms. The ACLU-MN, Gender Justice and Stinson LLP sued on the teen's behalf.

"I never want any student to experience the discrimination and cruelty I experienced from the adults at my school," Nick said. "It means a lot to see the courts protect transgender students like me. Today's settlement agreement makes it very clear that segregating transgender students doesn't just dehumanize us, it violates our legal rights."

In 2016, the school board barred Nick from using the boys' locker room, even though he'd been welcomed by and participated on the boys' swim team for much of the season. The district singled out Nick and forced him to use a segregated changing area all alone. This discrimination led to bullying and threats.

The school district agreed to take several steps including:

- Reaffirming its commitment to comply with the Minnesota Human Rights Act and not discriminate against or segregate transgender students
- Developing a policy to allow every student to use all facilities consistent with their gender identity, including a complaint procedure and a prohibition on reprisals
- Training school board members, staff, and students on these policies
- Affirming that students of all gender identities are valued and welcome.

"Anoka-Hennepin's mistreatment of Nick was unconstitutional and unnecessary, and we hope this settlement puts every other school district in Minnesota on notice that discrimination will not be tolerated," said ACLU-MN staff attorney David McKinney. "Our LGBTQ students, like all students, should have equal access to education, programs, and extracurricular activities, not be ostracized based on their gender identity."

In 2016, more than 55% of Minnesota students who identified as transgender reported having attempted suicide within the prior two years, according to a Minnesota Department of Education survey. Health risks like this are largely eliminated when trans students are supported in their efforts to live in a manner consistent with their gender identity.

As a result of our lawsuit, the state Court of Appeals ruled that it's a violation of both the Minnesota Human Rights Act and the Minnesota Constitution for school districts to segregate transgender students from their peers in locker room facilities. Shortly afterward, Anoka Hennepin settled the case.

The lawsuit was the second filed against the district over discrimination against LGBTQ students. The earlier lawsuit alleged the district allowed uncontrolled bullying and created unequal access to education. Nine students committed suicide in just two years.

The district was still under a federal consent decree to end its harassment of LGBTQ kids when it discriminated against Nick.

LEGAL VICTORIES

WOMAN SUBJECTED TO ATTEMPTED PUBLIC BODY-CAVITY SEARCH WINS SETTLEMENT

The ACLU-MN won a settlement after Rock County Sheriff and two deputies tried to forcibly do a vaginal search on an I-90 ramp in the middle of winter.

After pulling over a driver for a dangling air freshener and searching him, Deputy Dallas Hamm then turned to passenger Kelli Jo Torres.

For more than 30 minutes, Hamm and Deputy Shelley Douty yelled at Torres while Douty tried to perform a vaginal search in public, on the roadside. On dashcam audio, Torres refused at least 25 times to take part, asking them to do the search the right way at the station or a hospital.

The \$140,000 settlement includes reforms such as updated policies and training for proper dashcam usage and body searches; supervisory review of stops and arrests; a revised complaint process; and clearer definitions for searches.

“I felt very violated by the whole situation,” Torres said. “I repeatedly asked them to do the right thing. I hope this settlement sends a message to law enforcement everywhere that public strip searches are not OK, and they can’t treat anyone like this.”



State deputies moved Kelli Jo Torres out of the view of the dashcam’s video, however audio was recorded of the invasive search.

POLICY VICTORIES

CRIMINAL JUSTICE REFORMS? CHECK.

10 Years of hard work and partnering with diverse coalitions paid off at the state Legislature this year, with big wins for criminal justice reform.

ACLU-MN’s priority issues – ending driver’s license suspensions for unpaid low-level traffic tickets, reforming how Minnesota courts assess fines and fees, and overhauling the state’s civil asset forfeiture system – all passed to become law.

We partnered with everyone from city and county attorneys to legal aid, progressive groups like Voice for Racial Justice, and conservative groups such as Americans for Prosperity, to make this happen. We lobbied both sides of the aisle. Our volunteers and members did a lot of heavy lifting, putting pressure on lawmakers to make change. Victories include:

A Driver’s License Suspension law that will prevent the state from suspending a person’s driver’s license just because they have not paid a low-level traffic ticket.

Fines and Fees reform that allows courts to waive a \$75 surcharge tagged onto each case, making it easier for people with lower incomes to avoid going into debt over minor infractions.

Asset Forfeiture reform. Our current system allows law enforcement to seize property or cash if they suspect it’s connected to a criminal offense. People have to go through a civil court process to try to get their property back, even if they’re not convicted. This lack of protection for due process and property rights disproportionately hurts low-income people. The reforms include: a threshold of \$1,500 for property seizures; additional protections for innocent property owners; and a requirement that agencies report how much money they receive from forfeiture and how they spend it.

We opposed **Limits on Charitable Bail Organizations’** ability to post bail for people, and the measure didn’t pass. People of limited means shouldn’t be stuck in jail based solely on whether they can afford bail as low as \$100 or not.

Jailhouse Informant reform will provide more transparency around how and when information from jailhouse witnesses is used in a criminal case, including what informants are promised by prosecutors. We hope this helps reduce wrongful convictions.

ACLU-MN FIGHTS FACIAL RECOGNITION AND SURVEILLANCE TECHNOLOGY



Munira Mohamed, ACLU-MN's policy associate, speaking at a recent socially distanced Safety Not Surveillance Coalition event.

Facial recognition technology allows the automated and often indiscriminate surveillance of people as they go about their daily lives – an almost unthinkable invasion of our privacy.

The ACLU-MN won a ban by the Minneapolis City Council earlier this year, which voted unanimously to prohibit such tech use by law enforcement. We thank our volunteers, members, and partners at the Safety Not Surveillance Coalition (formerly POSTME) for their support.

The ordinance bans the city from acquiring or using facial recognition technology or the information derived from it. This makes Minneapolis one of only a handful of cities nationwide to take this critical step toward a more just, equitable version of public safety.

It's a significant victory for civil liberties in Minneapolis and a step toward ending the automation of systemic discrimination. Black and Brown people — who already are over-policed — are disproportionately at risk of wrongful arrest because facial recognition has racial bias baked into it. The error rate is as high as 34.7% for dark-skinned women. Law enforcement also has historically used this technology specifically to target vulnerable groups like immigrants and refugees.

“We already know that these racist, inaccurate technologies lead to unjust outcomes for Black and Brown people. We also know that, regardless of accuracy, these surveillance tools are disproportionately used in and against communities of color,” said ACLU-MN Policy Associate Munira Mohamed. “Especially as we work toward transforming policing in Minneapolis, we cannot allow racist police to be replaced with racist technologies.”

ACLU-MN IS HIRING! Executive Director

candidates can apply at
[ACLU-MN.ORG/EN/CAREERS](https://aclu-mn.org/en/careers)



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