

CIVIL LIBERTIES NEWS

Summer 2017
Vol 47/Issue 2



WARRANT FORGIVENESS DAY A SUCCESS



Volunteers at Warrant Forgiveness Day

In 2015, the ACLU released a study on low-level arrests in Minneapolis. We looked at arrest data from a 33-month period and found that one of the most common reasons for arrests was an outstanding warrant.

Currently, there are almost 10,000 active misdemeanor warrants in Hennepin County. Most of these warrants are issued for offenses like driving without a license, disorderly conduct, loitering, driving without insurance, etc... If you cannot pay your fine and miss your court date a bench warrant will be issued for failure to appear. Arresting an individual because they could not afford to pay for insurance and

couldn't pay the fine just means more collateral consequences for the individual. Now they are spending time in jail, potentially missing work, and having to pay for childcare, which makes it even more unlikely they can get the funds to pay for insurance and take care of the offense. Active warrants also make it harder to get a job, secure housing and move forward in general. Because of institutional racism in our government systems, there are also huge racial disparities; Black and Native people are 8 times more likely to be arrested, which means the negative impact on communities of color for all of these arrests is astronomical.

After we released the report in 2015, our friends at the NAACP Minneapolis came up with the idea of a warrant forgiveness day. We needed a creative solution like warrant forgiveness because an individual can't just walk into a courthouse and expect to resolve a warrant without getting arrested.

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DEFENDING CIVIL LIBERTIES AT THE MINNESOTA CAPITOL

We knew this would be a difficult year at the Minnesota Legislature. For the first time since 2012, Republicans controlled both the House and Senate. The ACLU is a nonpartisan organization and we have successful working relationships with members of both political parties. However, after the election in November, it was clear that the new Republican majority's agenda would include significant attacks on civil liberties. The good news was that the recent increase in donations to the ACLU allowed us to add a contract lobbyist for the session, doubling our presence and capacity at the Capitol. In addition, our network of volunteers and supporters throughout the state was bigger, stronger, and more active than ever before.

While we had a few important victories from our proactive agenda, most of our work this session was in defense of core civil liberties, including freedom of speech, separation of church and state, voting rights, and reproductive freedom. The ACLU-MN ultimately weighed in on over 20 issues that impacted your civil liberties. Here are some highlights from our work in the 2017 session:

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THE ACLU IN THE TIME OF TRUMP



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When I joined the board of the ACLU of Minnesota several years ago, I did not contemplate becoming the chair in a time of unprecedented upheaval in our political institutions. Nor did I foresee the nature of the 2016 presidential campaign and the election of Donald Trump as President.

What I did know was the mission and tradition of the organization I was joining. I chose to serve on the board of the ACLU because it has always been a clear and principled defender of individual civil liberties and a steadfast champion of the Constitutional principles of due process and equal protection which define our democracy. The ACLU has consistently followed its mission and maintained its principles throughout its nearly 100-year history without regard to partisan advantage. The ACLU's true clients are the individual rights and governmental principles embedded in the Constitution. The ACLU represents any and all parties when a Constitutional principle is at stake, including, at times, unpopular clients, because validation of their rights is necessary to preserve our freedoms and ensure the vitality of our society.

Today, we are in a period of extraordinary activity for the ACLU. It may be tempting for some to view these actions as partisan, but that would not be accurate. The ACLU opposes a Muslim ban because our Constitution does not permit discrimination on the basis of religion. The ACLU supports the rights of all immigrants because due process applies to everyone within our borders. The ACLU fights for women's fundamental reproductive

rights because personal privacy rights and equal opportunities for women are at stake. The ACLU questions the Attorney General's proposal for a maximum sentencing policy for all crimes because the ACLU knows the discriminatory impact such a policy will have on communities of color. The ACLU opposes unreasonable penalties for protests when the intent of the penalties is to intimidate the exercise of free speech rights. The ACLU demands transparency by governmental officials on potential ethical conflicts because secrecy on these conflicts undermines public support of our governmental institutions. In each of these cases, the ACLU's true interest is the advancement of individual freedom, due process, equal protection or good government.

In Minnesota, the ACLU will hold true to its mission. We will build non-partisan coalitions to advance internet privacy rights, civil asset forfeiture reform and expansion of voting rights. We will continue our work to eliminate racial bias in law enforcement in the Twin Cities and in greater Minnesota. We will oppose attempts to restrain reproductive rights and free speech protests. We will defend the hard won recognition of LGBT rights. We will fight the Muslim travel ban and oppose the use of local police to enforce new immigration policies.

Protecting our civil liberties and promoting a free, open and democratic society are not partisan activities. I invite all Minnesotans to join in the ACLU's mission and to come together to support the ongoing work to form a more perfect union. ■

WE THE PEOPLE



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In the days leading up to the inauguration of Donald Trump, the ACLU created #peoplesoath, stating, “When Donald J. Trump takes the Presidential Oath WE THE PEOPLE will also take an oath.” Participants could then sign an oath to preserve, protect and defend the Constitution of the United States, and share it online and on social media. Since the online feature debuted in January, over 97,000 people have participated. Like me, they strongly believe that it is up to each and every one of us to ensure that our government reflects our constitutional values and that we all share in the duty to preserve, protect, and defend the rights guaranteed to all by the Constitution of the United States.

One of the ways that the ACLU is helping We the People to carry out this important duty is through the new People Power platform. People Power is designed as a tool for volunteer-led activism at the local level. The primary goal of the program is to create resistance to the Trump agenda through progress at the local level. Working together, we can generate lasting policy changes that reaffirm our values and counter backward ideas that undermine the Constitution.

Many people are not aware of the fact that our constitutional rights derive from both the U.S. Constitution and the Minnesota Constitution. Furthermore, there are several cases

in which the Minnesota Supreme Court has held that the Minnesota Constitution provides stronger constitutional protections than does the U.S. Constitution. So by focusing on the state and local level, we can create policy changes in Minnesota that will protect all Minnesotans from some of the most draconian measures that are enacted at the federal level. Policy changes like keeping police out of the federal immigration enforcement business, protecting LGBT communities from discrimination, and reforming police practices that feed systemic racial disparities in our criminal justice system.

Connecting to People Power is easy. Simply go to peoplepower.org and sign up. You will be given the option to connect with a group in your area or to create and lead your own group. The ACLU is working hard to preserve and protect our constitutional rights but we cannot do it without you and your voices. State and local elected officials need to hear from you, their constituents. Author Alice Walker once said “The most common way people give up their power is by thinking they don’t have any.” We The People have power in our voices and we can use those voices to reaffirm our constitutional values and to demand that governments at the federal, state and local levels respect our constitutional rights. ■

Published quarterly in winter, spring, summer and fall, and distributed on average to 28,000 households.

Publication Office:
2300 Myrtle Ave, Suite 180
St. Paul, MN 55114
Civil Liberties News
(USPS # 114-860)

Subscription by Membership Only
PERIODICAL postage paid at St. Paul, MN, and additional mailing offices.

POSTMASTER: Send address changes to Civil Liberties News,
2300 Myrtle Ave, Suite 180
St. Paul, MN 55114

UNLAWFUL DNA COLLECTION IN DAKOTA COUNTY

Innocent until proven guilty? In Dakota County, not so much. Big Brother is watching you? In Dakota County, definitely.

We have seen a lot in the past few weeks about how much we are exposed when our data is collected and stored in huge databases. We have been reminded, as though we needed it, of the continuing validity of Murphy's Law: Whatever can go wrong will go wrong. The Russians and the Wannacry ransomware attackers have shown us that even the largest and most sophisticated collectors of electronic data are vulnerable to hacking and invasions of privacy.

But the Dakota County Sheriff and County Attorney turn a blind eye to all that and—alone among Minnesota's 87 counties—choose to ignore not only good sense but also a binding Minnesota appellate court decision upholding the privacy rights that the Minnesota Constitution guarantees to all Minnesotans.

Why, you may ask, is that happening? And what is the ACLU-MN doing about it?

The DNA in our genes tells our whole genetic story: who our relatives are, our physical and mental predispositions, our vulnerability to and defenses against diseases, who we are as a unique individual, and much more. It is, or at least should be, our most private information.

Understanding all that, the Minnesota Court of Appeals ruled in 2006 (*In re C.T.L.*) that law enforcement cannot forcibly collect genetic information from people who have been arrested but never been convicted of a crime. In a unanimous opinion, the court held that doing so violates BOTH the Bill of Rights of the United States Constitution AND the Bill of Rights of the Minnesota Constitution. So far, so good.

But, of course, the U.S. Supreme Court gets the final

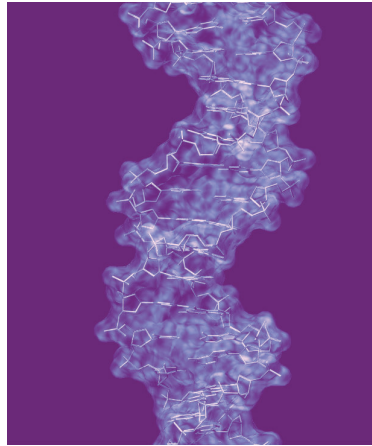
word on the meaning of the U.S. Constitution. In a 5-4 decision in 2013, that court held that, as far as the U.S. Constitution is concerned, seizing a person's DNA is more like fingerprinting or photographing a person than it is like searching their bodies and homes. Justice Scalia in a blistering dissent warned that, "because of today's decision, your DNA can be taken and entered into a national database if you are ever arrested, rightly or wrongly, and for whatever reason."

The decision might help solve crimes, Justice Scalia went on, but "so would the taking of DNA samples from anyone who flies on an airplane, applies for a driver's license, or attends a public school." He concluded: "I doubt that the proud men who wrote the charter of our liberties would have been so eager to open their mouths for royal inspection."

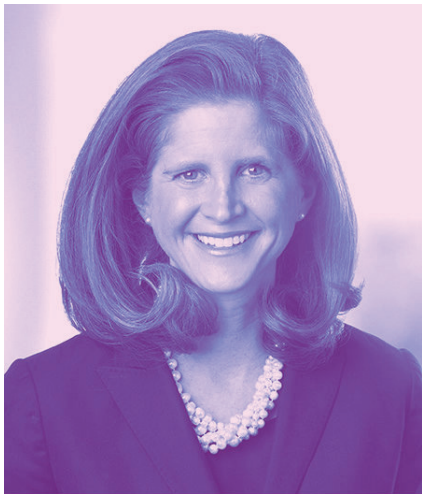
Based solely on the U.S. Supreme Court decision, Dakota County—alone among Minnesota's 87 counties—decided to resume the practice of warrantless DNA collection. If the U.S. Constitution does not forbid the practice, then what is to prevent us from using it?

Well, the Minnesota Constitution, for one thing. Don't forget *In re C.T.L.*, the 2006 case that held the Bill of Rights of the Minnesota Constitution offers protections to Minnesotans from warrantless DNA collection. It is not an unusual holding. Minnesota courts have held repeatedly that Minnesota's own Bill of Rights goes further than the U.S. Bill of Rights. In other words, the U.S. Bill of Rights merely sets a floor, a minimum standard. States are free to set higher standards, and Minnesota has often done so, offering Minnesotans additional protections against unreasonable searches and seizures, and violations of privacy rights, as well as rights to equal protection, access to counsel, and religious freedom.

The Dakota County Sheriff and County Attorney have chosen not to pay attention to that part of *In re C.T.L.*, which is too bad. It means that ACLU-MN has needed to remind them—which we just did with the lawsuit filed on behalf of our client, John David Emerson. ■



DONOR PROFILE



Julia Dayton Klein

“We are in a unique time when all civil liberties feel under threat. Everything that is fundamental to the beauty of our collective society feels under threat: religious freedom, racial and ethnic

diversity, women’s rights, LGBT rights, environmental justice, freedom of the press, and fundamental notions of justice and community. Every day, we see news about these threats and about people emboldened by these times to attack the most vulnerable of our society.

Trying times present great opportunities to be part of the historic fabric of our nation where we stood up to injustice and fought back. I want to be one who stood up. I want to be part of that fight. And the ACLU is on the front lines each and every day.

My first response to anyone asking what to do in the wake of the election is to pick three things that matter to you most and do everything you can to protect those things: volunteer, give money, show support, anything. If people ask for organizations to support, the ACLU is on the top of my list because they protect the fundamental freedoms that we hold dear as a country.

As an attorney, I have legal skills to contribute to the ACLU and through my supportive work environment, I am able to devote time to helping others through pro bono work. Additionally, I support the ACLU financially so that they can continue to protect our rights. Finally, I strive to encourage others to join the cause. If there was ever a time, it is now.” ■

NOTICE OF SPECIAL MEETING OF THE ACLU-MN MEMBERSHIP

The ACLU-MN will hold a special meeting of the membership on Saturday, July 15 at 9:00 a.m. The meeting will be held at Mitchell Hamline College of Law in the Kelly Board Room, 875 Summit Ave., St. Paul, Minnesota. The purpose of the meeting will be to vote on an amendment to the ACLU-MN Articles of Incorporation to officially change the organization name from the Minnesota Civil Liberties Union to the American Civil Liberties Union of Minnesota.

All members in good standing are welcome to attend. For more information and to RSVP please email Sarah at sheil@aclu-mn.org.

UPCOMING EVENTS

Pride Weekend Festivities - June 24 & 25

- Stop by the ACLU-MN’s booth at the Pride Festival to pick up a free constitution and purchase a t-shirt or yard sign.
- Join the ACLU’s parade contingent on Sunday, June 25, 10:30 a.m. - 12:30 p.m. Email Kate at kingersoll@aclu-mn.org to sign up or for more information.

State Fair Booth - Aug. 24 - Sept 4

- Stop by the ACLU-MN’s booth in the Education Building at the State Fair to pick up a Constitution and other ACLU swag.

Keep up to date with all of our events by visiting www.aclu-mn.org and clicking on the events tab.

Follow us on social media to stay up to date on ACLU-MN happenings

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Questions about giving to the ACLU? Need to update your address?

Contact Molly Miller Mons, Manager of Philanthropic Relations, at 651.529.1696 or give@aclu-mn.org.

WARRANT FORGIVENESS CONTINUED VICTORY IN TRANS TEEN CASE

Together the NAACP MPLS and the ACLU-MN approached Hennepin County judges, the Minneapolis City Attorney, and the Hennepin County Public Defender's office to float the idea of a day to peacefully resolve warrants. We also received grant funding from the United Way to make this event possible. After months of preparation and planning, we came together to host a Warrant Forgiveness Day on Saturday, May 20.

The event was hosted in the community and not a courthouse to make it as comfortable as possible for people. There was minimal law enforcement presence and a lot of friendly ACLU and NAACP volunteers.

To resolve most of their offenses people could do community service hours in the same building, so when they walked out they could be done with everything. There were also people there from Driver and Vehicle Services and expungement clinics to help individuals take care of other issues that could prevent them from moving forward. We wanted it to be a one-stop shop.

During the day, a number of people took the time to write letters about what this experience meant to them. Here is an excerpt from one: *"This is probably the most beneficial thing that has happened to me this year. I don't have to wonder anymore. Worry about if I'll be separated from my child is GONE!! I'm not a career criminal. I am a single mother who made a mistake and now I'm free to move forward fearlessly."*

On this one day, over 230 cases were resolved. That is great news for everyone involved; the individuals, the courts, law enforcement, and the larger community. While this one event cannot change all of the problems in our criminal justice system it is a great start.

It was wonderful to see all of the complicated parts of the court system; the judges, the prosecutors, the public defenders, and the administrators come together and be in the community for this event.

Our hope at the ACLU (and NAACP) is that this is the first of many warrant forgiveness days. ■

A 15-year-old transgender girl living on the Iron Range in Minnesota, identified only as Jane Doe to protect her privacy, can finally breathe a sigh of relief and try to get back to normal life.

Last year, Jane was forced into the middle of a lawsuit for trying to live as a typical teenager. A group of parents sued her school to try to prevent Jane from using the bathrooms and locker rooms that match her gender identity because the parents were upset that the school was properly recognizing Jane's gender identity. Jane wants what all young people want: to be accepted for who she is and treated just like other students.

After this, a group of parents acting through an organization they named "Privacy Matters" and represented by the anti-LGBT organization Alliance Defending Freedom, filed a complaint against her school. The ACLU and ACLU-MN intervened on her behalf to make sure she had a voice in the case and that her rights were protected.

In April, the parents suddenly dropped the lawsuit against the school, ending the court battle. This is great news for Jane as she can finally go back to trying to live her life without a threat of a lawsuit.

While Jane can move on, the same cannot be said for transgender teens across the country. While in office, President Obama issued a directive that schools allow transgender teens to use restrooms that matched their gender identity.

President Trump has since rescinded the directive, putting thousands of teens at risk. At the same time that our lawsuit was happening, another lawsuit out of the state of Virginia was waiting to be heard at the U.S. Supreme Court. Gavin Grimm had sued his school because they were not allowing him to use the restrooms that matched his gender identity. The Supreme Court recently sent the case back to the U.S. Court of Appeals to make a decision in light of President Trump's rescinding of the directive.

Now transgender teens across the country are waiting to see what the Fourth Circuit Court of Appeals will do in the case *G.G. v. Gloucester County School*. The National ACLU is representing Gavin in that case. ■

CIVIL LIBERTIES AT THE CAPITOL CONTINUED

Freedom of Speech and Assembly

- Civil Liability for Protesters (HF 322/SF 679): This bill would force protesters to pay for any costs associated with a protest that was found to be unlawful. Though it passed a House committee on partisan lines, the bill was not given a hearing in the Senate, so it did not move forward in 2017.
- Increased Penalties for Protesters (HF 390/SF 1066): This bill would increase penalties for blocking a highway, public transit, or airport access from a misdemeanor to a gross misdemeanor. It passed the House and the Senate as part of the Judiciary and Public Safety Omnibus bill; however, the language was removed at the last minute in negotiations with the Governor.

Separation of Church and State

- Scholarship Tax Credits (HF 386/SF 256): This bill would establish tax credits that act as school vouchers in disguise, effectively allowing public money to go to private and religious schools. The language passed both the House and Senate as part of the first Omnibus Tax bill that was then vetoed by Governor Dayton. In his veto letter, the Governor indicated that he would not sign any bills that included scholarship tax credits.

Voting Rights

- Provisional Ballots (HF 1586/SF 1225): This effort would move Minnesota towards a system of provisional ballots that could increase voter suppression. The language passed the Senate as part of the Elections Omnibus bill, but it did not have bipartisan support. Accordingly, this controversial language was removed before the elections bill was sent to the Governor.

Reproductive Freedom

- Public Funding Ban (HF 809/SF 702): This bill would prohibit the use of public funds for abortion services in Minnesota. In 1995, the Minnesota

Supreme Court ruled in *Doe v. Gomez* that it was unconstitutional to selectively fund pregnancy and birth-related services while refusing to cover abortion services. Regardless of constitutionality, the bill passed the full House and Senate before it was ultimately vetoed by Governor Dayton.

- Abortion Clinic Licensure (HF 812/SF 705): This bill would create onerous licensure and inspection requirements for certain clinics that perform abortions. This anti-choice bill also passed the full House and Senate, but was vetoed by Governor Dayton.



Gov. Dayton signing forfeiture reform bill

Criminal Justice Reform

- Civil Asset Forfeiture Reform (Ch. 12/HF 389/SF 151): This new law allows for innocent joint-owners to file a claim in court when their jointly-owned vehicle is seized due to the other owner's violation of Minnesota's DWI laws. The ACLU-MN, along with several coalition partners, lobbied in support of this bill for a number of years. While other civil forfeiture reforms are still needed, we believe this law is an important step in the right direction.

Privacy and Technology

- Ignition Interlock GPS Privacy Protection (Ch. 83/HF 179/SF 347): This new law prohibits warrantless GPS location tracking of ignition interlock devices. The ignition interlock program was intended to keep drunk drivers off the road by disabling their vehicles, not as a secret way to track the movements of program participants. The ACLU-MN testified and lobbied in support of this important privacy protection.

We would like to thank all of the volunteers and supporters who attended our legislative trainings, participated in the ACLU-MN Day at the Capitol, and took action with their representatives through our Legislative Action Network.

While we anticipate many new and returning challenges in the 2018 session, the ACLU-MN will continue to stand strong in the defense of your civil liberties at the Minnesota Capitol. ■

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Civil Liberties News
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