

The Guardian of Liberty



in Minnesota Since 1952

Annual
Report

2005-
2006



From the Executive Director and President

It was 53 years ago that a group of attorneys met in Earl Larson's living room in Minneapolis to found the ACLU of Minnesota. These people could hardly have dreamed that from this small acorn would grow an organization of 10,000 people across Minnesota. They could never have imagined that the ACLU of Minnesota would receive more than a thousand requests for aid last year. Or, that it would have another office in Bemidji. Or that it would publish a social studies curriculum for Junior High School Students.

This reports briefly touches on some of last year's highlights. Many people have worked hard to grow the ACLU of Minnesota; many of them long time board members. They have left the board because of term limits not because of any loss of interest in civil liberties. We have said goodbye to former President Mike Goldner, Former Treasurer Chuck Silverman, former Secretary Chris Spotted Eagle, Liz Hawn, Pierce McNally, Former President Lawrence Field, Jerry Rauser and Jay Swanson. They all worked to promote the ACLU as the bastion of liberty as the defender of last resort.

We look forward to a bright future in which new board members will help shoulder the burden that others have carried and will move forward toward creating a Minnesota that strongly endorses individual liberties.

Next year the ACLU of Minnesota will focus on increasing our public education efforts throughout the state. Although Nick Sikon has moved on, Jana Kooren his replacement has developed exciting new plans for next year. We plan on completely changing our web site and creating a more dynamic member portal. Those changes alone will give us the opportunity to more effectively work with the legislature and the community at large. It will enable the ACLU of Minnesota to rally more people more quickly to solve our common problems.

Of course we will continue our program in Bemidji. The Greater Minnesota Racial Justice Project (GMRJP) has raised the ACLU banner in a new part of the state and has focused attention, even national attention, on the problems faced by Native Americans living in a rural area. We are proud to be able to support Audrey Thayer's work.

Thank you for your support and we look forward to working with you to make a stronger, more active ACLU of Minnesota in the future.



April 2005—March 2006 at a glance

Legal inquiries processed.....	1,200 est.
Cases in litigation.....	14
Volunteer attorneys.....	22
New ACLU of Minnesota Members.....	1,794
Campus Clubs.....	8
Interns and Law clerks.....	
Website visits.....	246,408
Media "Appearances".....	25
Speaking Appearances.....	97

"Any society that
would give up a little
liberty to gain a little
security will deserve
neither and lose
both."

-Benjamin Franklin

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Legal Cases

Gay & Lesbian Rights

SAGE v Maple Grove Sr. High

It all started when one student noticed the disparities between how her after school group, Straights and Gays for Equality (SAGE), and other after schools groups were treated. The student filed an initial complaint in 2002 which resulted in the ACLU writing a letter to the school. The student graduated soon after and the school didn't change their policies. Then two brave students stepped forward to take on a lawsuit against their school. These two students faced harassment by other students and listened as students used derogatory names against GLBT persons, and the school did nothing. They decided not to stand by idly when they noticed the preferential treatment that some student groups got, such as advertising their meeting times over the PA system or using the video system. They were repeatedly denied access to these opportunities. Maple Grove High School has been fighting against the students every step of the way. The ACLU first tried to settle this matter out of court, but when the school refused to comply, the ACLU, with the help of it's volunteer attorneys from Robins, Kaplan Miller & Ciresi, sued the school. The Federal District Court granted an injunction in favor of the students that granted them equal access until the court case was heard. The hearing was brought to court in October 2006; a decision is expected in January



Racial Profiling

Berg v DEA

In 2001, Bonita Berg was returning to Minnesota from Los Angeles and was in the airport when she was stopped. Two DEA officials they said they were stopping her because they were checking for drugs or laundered money. Bonita asked the officers "why did you stop me?" They officers told her that her bag looked heavy. Bonita, an African American woman told the officers that she believed she was being racially profiled and that they did not have a right to stop her. They asked for her driver's license and ticket, and they told her they wanted to search her carry-on luggage. All they found in the search was a bible, some clothes, and makeup. They did not search her checked bag. After the search, the officers left. Bonita then contacted attorneys who through the help of the ACLU filed a lawsuit. The lawsuit was filed on constitutional claims citing the 4th amendment (unlawful search and seizure) & 5th amendment (racial discrimination). Since the lawsuit was officially filed in 2002, the government has tried to get the lawsuit thrown out and to prevent the ACLU from taking depositions of the two officers. Their attempts failed. Bonita Berg and her team of lawyers from Dorsey & Whitney, ACLU, and Goins & Wood are awaiting the outcome from the hearing which was held in December 2006.

Voting Rights

NCAI V Kiffmeyer

A Consent Decree entered in fall 2005 has resolved the majority of our voting rights case against Secretary of State Kiffmeyer. The Consent Decree ensures that American Indian voters will be able to register to vote using their Tribal ID on the same par as a state-issued Driver's License. Voting is at the core of our representative democracy and this Consent Decree permanently removes a significant obstacle to voting for many American Indians in this state. The Consent Decree was the result of a 2004 lawsuit that was filed in Federal District Court against Secretary of State Kiffmeyer for failing to reconcile Minnesota election law with federal law, including the Help America Vote Act of 2002 (HAVA) and the Fourteenth Amendment right to Equal Protection. Minnesota law prohibited the use of a valid, federally-recognized tribal ID for election-day registration if the citizen did not live on a reservation. Additionally, if the voter's tribal ID did not include an address, Minnesota law prohibited acceptance of the ID together with a current utility bill to show the voter's current address. This in spite of the fact that the law allowed other forms of ID without a current address if provided with a current utility bill. We obtained a TRO shortly before the 2004 election, allowing individuals to register using a tribal ID whether or not they live on the reservation.

The remainder of the lawsuit relating to HAVA compliance was voluntarily dismissed without prejudice, and the ACLU-MN will be working to get the legislature to adopt changes to state law to ensure full compliance.

Youth Rights

ACLU-MN volunteer attorney, Jordan Kushner, filed a free speech brief in an appeal on behalf of a seventh-grader who was adjudicated a petty offender for drawing a cartoon with violent themes. The brief argues that our client should not have been found to have violated the state's disorderly conduct law because there was insufficient evidence to suggest that the pure speech of the cartoon constituted conduct prohibited by law. The brief also argues that the cartoon constituted protected speech for which he cannot be punished. The Minnesota Supreme Court has held that, as applied to pure speech, Minnesota's disorderly conduct law may only be applied to unprotected speech such as fighting words. Our client's cartoon was created as a therapeutic response to bullying that he had experienced at school. It did not fit the definition of fighting words, and the Court did not determine that it fell into any other category of unprotected speech such as a "true threat."

Due Process

Minneapolis V Kuhlman /Photo Cop

In December 2005, the ACLU filed a motion seeking the courts legal opinion on the validity of the use of cameras to catch traffic violations in Minneapolis. In its brief, the ACLU-MN argued that in Minnesota petty misdemeanor prosecutions, the prosecutor has the burden of proof to show that an individual is guilty beyond a reasonable doubt. The Minneapolis ordinance relieves the prosecutor from the burden to prove that the owner was actually the driver of the vehicle that was photographed going through the red light.

In March 2006, Hennepin County District Court Judge Mark Wernick invalidated a Minneapolis ordinance permitting the use of cameras to catch traffic violations, agreeing with the position presented by the Minnesota affiliate of the American Civil Liberties Union that the ordinance stood in violation of state law. The city of Minneapolis appealed, and the ACLU is awaiting the results of the Court of Appeals Hearing.



Legal Cases

Citizen Participation

Unity Church et al. v State of Minnesota

In a case about the values we put on citizen participation and oversight of the legislative process, we participated as *amicus curiae* in a lawsuit challenging the method that the Minnesota Legislature used to adopt a controversial bill on handgun permits. In [Unity Church et. al. v. State of Minnesota](#), we argued that the Minnesota Citizens Personal Protection Act (MCPA), which was amended onto an unrelated DNR bill, violated the Minnesota constitutional requirement that legislation be related to a single subject. The Minnesota Court of Appeals held that the MCPA violated the single-subject provision and severed it from the rest of the bill. In spite of the fact that four courts have ruled against them, the State of Minnesota petitioned the Minnesota Supreme Court for review of the case. The State dropped its appeal when the Legislature passed a stand-alone bill replacing the legislation that was struck down.

The plaintiffs in the case also raised a free exercise of religion claim, arguing that the law interfered with the ability of churches to ban weapons on their property including parking lots, and it interfered with their ability to choose the way in which they wished to communicate their desire to keep weapons off their property. Because the initial law was invalidated on other grounds, the district Court and the Court of Appeals never reached the free exercise of religion claim. When the new law was passed, the plaintiffs again filed a lawsuit challenging the law, this time putting the free exercise claim front and center. The ACLU-MN is preparing to participate as *amicus curiae* in support of their cause if the case reaches the Court of Appeals.

Volunteer Attorneys: Bill Pentelovitch and Dawn VanTassel, Maslon, Edelman, Borman & Brand.

Prisoners Rights

Carrillo v Fabian

In [Carrillo v. Fabian](#), we filed an *amicus curiae* brief with the Minnesota Supreme Court arguing that the Minnesota Department of Corrections inmate discipline process violates their right to due process because the standard for determination of whether or not they have violated prison rules is too low. The current policy allows discipline – which can lengthen the time that the inmate is incarcerated – if there is “some evidence on the record” that points to guilt. Thus, an inmate could face discipline even if the weight of the evidence points to their innocence. The Minnesota Supreme Court invalidated disciplinary procedures, ruling that a higher standard of proof is required for discipline that results in extended incarceration.

Prisoners Rights

Prison Legal News v Fabian

The ACLU-MN was involved in two important cases protecting the rights of prisoners. Access to legal information is the most fundamental tool that prisoners have to protect their rights. It is critical for inmates to be informed of their rights so that they can advocate on their own behalf when their rights are being denied. In [Prison Legal News v. Fabian](#), we averted direct litigation when we were able to convince the Minnesota Department of Corrections (MN-DOC) to amend its rules and allow inmates in segregation to have access to legal publications. The ACLU-MN and the ACLU National Prison Project had planned to file a lawsuit on behalf of the legal publication Prison Legal News, which would have been censored under the new rule. The DOC capitulated to a demand letter that was sent to them one week before filing the lawsuit. They adopted a new policy that will allow inmates in segregation to receive legal publications. Minnesotans value constitutional rights, and we applaud the Department of Corrections’ move to lift this ban on legal information.

Reproductive Freedom

The ACLU of Minnesota testified against the “Positive Alternatives Act” which prohibits a pregnancy counseling organization that receives state funds to promote any organizations that promote abortion or any organizations that are affiliated with promoting abortion as an option. First off, the ACLU-MN testified that because the bill does not define what is an “affiliate” of an organization, this broad scope will place too great a burden on women and organizations. Furthermore, the ACLU also testified that it could interfere with a woman’s right to reproductive decisions. However, the legislature did not agree with the ACLU it passed into law in 2005.

Medical Assistance Liens

In 2003 the Minnesota Legislature redefined a type of property interest, known as a Life Estate, that originated in the early 1600’s. They turned this 400-year-old principle of property law on its head to make it easier for them to collect money from medical assistance recipients after their death. The ACLU-MN opposed the new law because it was applied retroactively to and amounted to an unconstitutional takings without just compensation. The Minnesota Legislature agreed and in 2005, they changed the law so that it did not apply to Life Estates created before the law went into effect.

Tribal ID Cards

In the Senate Elections Committee, we testified in favor of SF2976. The bill would make it easier for individuals to register to vote at the polling place. We support the bill because it will further Minnesota’s long and proud tradition of encouraging voter turnout, and will reduce the barriers faced by eligible voters who wish to register and vote on election day. The bill would also serve to meet and exceed the Tribal ID requirements of the consent decree that we obtained in [ACLU, et. al. v. Kiffmeyer](#). The bill successfully passed through the House and Senate and was signed into law by Governor Pawlenty.

Immigration

The ACLU-MN testified in several hearings during the 2006 session opposing various anti-immigrant measures. We argued that immigration is a federal matter and should be left to the federal government. We also argued that enlisting local police to enforce immigration law would be bad for public safety. Police officers count on the cooperation and trust of the people they serve and their job would be much more difficult if undocumented immigrants are fearful of talking with police about crimes in their neighborhoods. The proposals ultimately did not pass.

DNA Samples

The ACLU-MN opposed a bill to require individuals arrested for certain felonies to provide a DNA sample for inclusion in the state registry. We argued that individuals should be presumed innocent until proven guilty. We also argued that the Fourth Amendment protects individuals from being forced to submit to this type of search without a warrant based on probable cause. The 2005 Legislature passed the bill over our objections.

Funeral Protests

During the 2006 Legislative Session, the ACLU-MN worked to fix an unconstitutional bill outlawing protests near funerals. The bill was aimed at the virulent funeral protests, lead by the Reverend Fred Phelps, which have taken place around the country. We argued that the bill was a well-intentioned but seriously flawed proposal. In effect the bill should have been called the Fred Phelps Full Funding Act. While we do not have any plans to challenge the law, it is likely that it will be challenged – probably by Phelps himself– and that he will likely be successful and be awarded attorney’s fees, which will fund his organization for a long time to come. We tried to get the Legislature to fix the bill so that it would not be vulnerable to a constitutional challenge. The bill ultimately passed and we have yet to see whether it will be subjected to a constitutional challenge.

Greater Minnesota Racial Justice Project (GMRJP)

Native American reservations span seventeen different Minnesota counties, most of which are located in the rural, north central part of the state where law enforcement is not as regulated as it is in other areas of the state. Some of these counties reflect appalling arrest rates of this population. In Cass County, for example, Native Americans make up only 11.5 percent of the population yet account for 54.9 percent of the arrests. When these crimes are broken down, the discrepancies become even more blatant. Native Americans in Cass County represent 68.18 percent of those arrested for assault, 78.26 percent arrested for vandalism, 65.52 percent arrested for disorderly conduct, and 77.78 percent arrested for motor vehicle theft. In addition, there are twenty-four counties in Minnesota, over one-fourth of the state's total, which arrest Native Americans at rates of four or more times their represented population.

Court Monitoring Program

The Greater Minnesota Racial Justice Project began its court monitoring program early in 2005. By fall, five volunteers were on board to observe court proceedings in Beltrami County. Those observations revealed that 37% of people going through the court system are Native American while the population is only 18% Native American. By creating a presence in the courtroom, we are promoting accountability, raising public awareness, and learning to advocate for resources for improvements.

The ACLU of Minnesota believes that the presence of observers in the courtroom can promote accountability and serve as a strong reminder that the public has a vested interest in what happens there. Court monitoring programs can provide a forum for constructive dialogue among citizens, the judiciary, and other members of the criminal justice system.



Working within the Native Community

Support from the Native Community is key to the work of the GMRJP. The dedicated staff of the GMRJP regularly attend Indian gatherings distributing education materials such as constitutions and starting discussion groups on racial justice. The GMRJP Coordinator, was invited to participate as a representative of the ACLU at all three local reservations at ceremonies to address youth issues. The GMRJP also supports the efforts that the Native Communities undertake such as promoting the Healing Walk from Leech Lake to Red Lake .

Community Partners

Building good community partners is essential to ending the racial discrimination, building relationships with local law enforcement, legislators, (both Tribal and Minnesota State), the media and local politicians is key to advancing our agenda.



Education

THE GMRJP spent the year with emphasis on education within the local tribal school and colleges within the seven county area. Spoke at classes at least once a month (excluding the summer) at Bemidji State University, Leech Lake Tribal College, Bug School, Cass Lake High School, Northwest Technical College and the Youth Build Program. These speeches covered topics on racial profiling, justice issues and constitutional issues. Audrey Thayer, the GMRJP Coordinator was invited to be the Keynote Speaker at Bemidji State University for their Human Rights Day in June of 2005. The media also played a critical role in educating the public on our message. The GMRJP was invited to present on various live radio shows, and submitted many editorials that were published in papers throughout Minnesota.

Youth Initiatives

The GMRJP partnered with Youth Build to educate its participants on police profiling. It has also worked to recruit youth to participate in the Blandin Youth Summit a state wide initiative to build youth leadership.

Voting Initiatives

The ACLU of Minnesota believes strongly in voting and the right to vote. GMRJP carried out many education projects within the community on educating people on the importance of voting and working with local other organizations to Get Out The Vote.

Round Table Discussions

The Greater Minnesota Racial Justice Project also facilitated a series of three Community Round Table Discussions intended to educate and engage our public citizens. The first, held in November 2005 presented a panel of the 9th Judicial District Public Defenders to talk about their professional experiences and to answer questions. The second Round Table Discussion, in January 2006, was about Court Monitoring and Navigating the Legal System presented by a local attorney. The third in the series, held in March, was a lecture on Racial Profiling presented by Myron Orfield, author of the 2003 Minnesota study.

Public Education

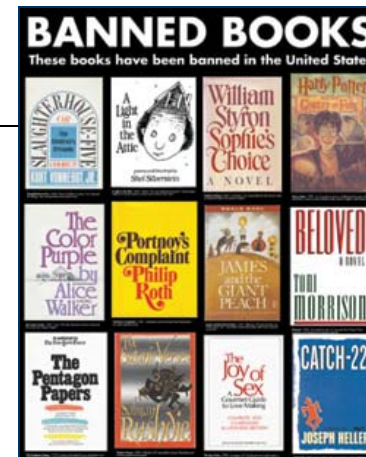
Constitution Day

Another favorite fall event is Constitution Day, which is on September 17th, but this year it was celebrated on the 16th so it could take place during a school day. The ACLU-MN celebrated in a big way by speaking at schools all over the Twin Cities region. The board also got involved and helped to spread the word about the wonder of the bill of rights. The ACLU-MN also handed out cool “prizes” including a pocket-sized copy of the constitution. Throughout all of last year, they gave away more than 10,000 copies of the constitution.



Banned Book Week

The ACLU-MN executed an enormous project during Banned Book Week in September. The ACLU-MN joined forces with libraries, bookstores and other local partners. Although not new, this topic is continually a hot point in the community with recent books including *Harry Potter*, and old classics like the *Catcher in the Rye* continually being challenged across the country by parents, schools and government officials. The ACLU hosted numerous banned book readings in bookstores across the Twin Cities with various local celebrity readers including Channel 11 weekend newscaster Rick Kupchella, and local bar owner Kieran Folliard. The events were well attended and received by the public.



PRIDE

As the summer time came strolling in, so did an event that always proves to be a good time: Pride. As usual, the ACLU-MN had a booth at the Pride Festival where they handed out mini constitutions and educated people on the famous GLBT rights cases in Minnesota. The ACLU-MN loves to show its PRIDE!

Student Groups

During this time period both Hamline Law School, & William Mitchell College of Law were in the beginning stages of their student groups. The groups now boast between 20 – 30 members. Students at Macalester College also began forming their own student group. To date, there are student groups at University of Minnesota Law School, Hamline Law School, William Mitchell School of Law, Carleton College, Macalester College, University of Minnesota Duluth, & University of Minnesota—Mankato. There is even an organized group at Chaska High School! These groups have hosted speakers, held discussions and facilitated other education projects at their respective schools.

Earl Larson Award

In 1997, the Minnesota Civil Liberties Union (now the American Civil Liberties Union of Minnesota) established the Earl Larson award to honor an attorney who has supported the work of civil liberties throughout his or her lifetime. The award was named after Earl Larson who besides being a founder of Lindquist and Vennum and a federal judge was one of the founders of the MCLU.

This year the ACLU-MN honored Jack Davies. The board chose Mr. Davies to receive this award because of his long commitment to civil liberties in general and to the ACLU in particular; because of his key decisions on the Court of Appeals; and because of your two and half decades in the Minnesota Senate and as a law professor at William Mitchell College of Law.

Davies served as a Minnesota state senator for 24 years, and as a professor at William Mitchell College of Law for 25 years. His proudest achievement in the legislature was passage of the no-fault automobile insurance law, which reformed Minnesota's system of compensating automobile accident victims. In addition to no-fault, Davies, as a senator, was chief author of more than 54 major laws, and dozens of more routine matters.

Davies was appointed to the Court of Appeals by Governor Perpich on July 1, 1990. Among Judge Davies' significant opinions are In Re Guardianship of Kowalski, 478 N.W.2d 790 (Minn. App. 1991) (ending a seven-year struggle between the parents and partner of a brain-injured lesbian); Lundman v. McKown, 530 N.W.2d 807 (Minn. App. 1995) (relating to the civil liability of Christian Scientist parents and caregivers for the death of a diabetic child); and State v. Carter, 545 N.W.2d 695 (Minn. App. 1996) (a search case that was affirmed by the U.S. Supreme Court). Congratula-



Howard Dean Speaks on Civil Liberties

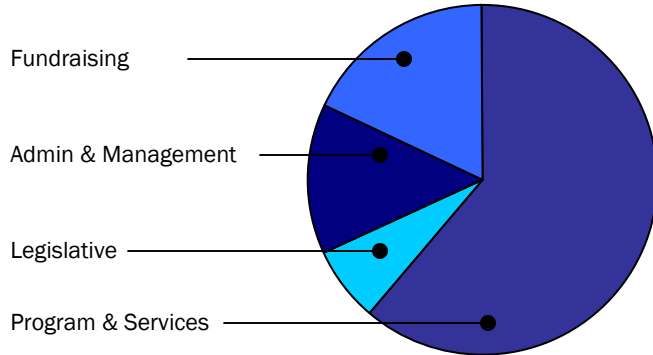
In April 2005 Howard Dean came to Minnesota and gave a rousing speech on civil liberties to a crowd of 100 civil liberties enthusiasts. This event was done as a fundraiser for the ACLU of Minnesota. Thank you to Howard Dean and all those who attended.

Civil Liberties Forum

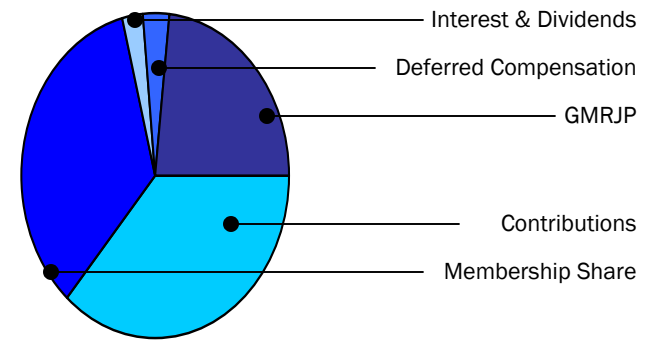
The majority of the Public Education projects were developing and marketing the TV-miniseries "Civil Liberties Forum." This exciting miniseries covers a wide range of topics such as "Racial Profiling after 9/11," "Reproductive Freedom in St. Paul," "Privacy and Technology in the Digital Age" and many more! They include guest speakers from the ACLU-MN's Board of Directors and other local well known community members such as Mark Yost, Tim Stanley & Ed Butterfoss. Episodes of "Civil Liberties Forum" were shown and are currently being shown at over a dozen public access television stations across the state. The ACLU-MN also assisted in distributing the National ACLU's TV miniseries entitled "ACLU Freedom Files," which was produced and directed by Emmy Award winner Jeremy Kagan. They cover topics such as The Supreme Court and The Patriot Act. Both mini-series are powerful learning tools that the ACLU will continue to use to educate Minnesotans. Now that the National ACLU office has been producing videos, the ACLU-MN decided to cool its jets for a while and redirect the money that was being used to produce the programs to focus on other areas of interest.

Financials

Expenditures 2005-06



Revenue 2005-06



Expenditures

Programs and Services	\$270,655
Admin & Management	\$79,788
Fundraising	\$61,545
Legislative	\$30,515
Total Expenditures	\$442,412

Revenue

Membership Share	\$188,030
Contributions	\$180,992
GMRJP	\$120,281
Deferred Compensation	\$16,952
Interest and Dividends	\$11,893
Total Income	\$518,148

**President's Council
\$25,000 or more**

Bush Foundation
Kevin Mossier Foundation
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**Justice Council
\$10,000 to \$24,000**

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\$1,000 to \$2,499**

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Bill of Rights Defenders \$250 to \$299

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Janine Allison
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Laird Barber
Margaret Barbis
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Calvin Gower

Seth Grossinger
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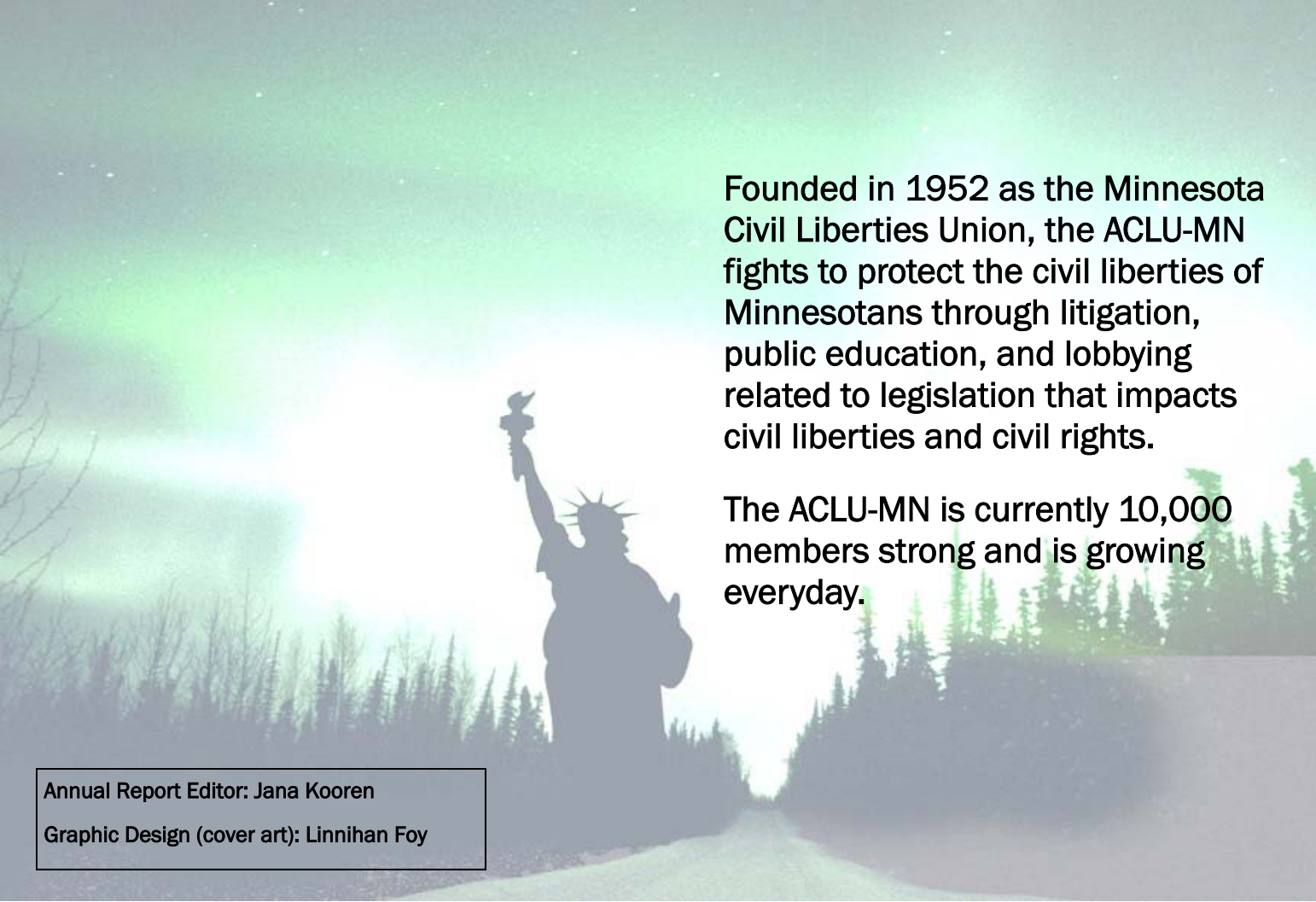
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