



# ACLU

## CIVIL LIBERTIES NEWS

Published quarterly in Spring, Summer, Fall, and Winter

Publication Office:

2300 Myrtle Ave, Suite 180

St. Paul, MN 55114

**AMERICAN CIVIL LIBERTIES UNION  
of MINNESOTA**

Volume 41 Season: Fall/Winter Issue 03/04

## Tim Branson receives 2010 Earl Larson Award



Tim Branson with ACLU-MN President Wally Hilke and Executive Director Chuck Samuelson.

More than 100 members of the legal profession, politicians, and civil libertarians gathered on November 9th to applaud Tim Branson's reception of the Earl Larson award from the ACLU of Minnesota and the award committee. Tim Branson has been an attorney with Dorsey & Whitney LLP for his entire legal career. For most of the past three decades, Branson has litigated key civil liberties cases for the ACLU-MN and other non-profit, civil liberties organizations such as Planned Parenthood.

The ACLU of Minnesota created the Earl Larson Award to honor those attorneys who have pursued a lifelong commitment to justice and civil liberties work. The award was named for the founder of the ACLU of Minnesota, Federal Judge Earl Larson.

## ACLU-MN v. TIZA Update

In late January, ACLU-MN reached settlement agreements with the state education commissioner and Islamic Relief USA, an organization that oversees the school. The settlement agreements are subject to approval by a federal judge. The ACLU-MN has yet to reach a settlement agreement with TIZA but a settlement conference is planned for late February. However, attorneys for the ACLU believe a settlement agreement with the charter school is a long way.

In addition, TIZA has filed a motion for summary judgment which will be heard at the end of February.

Documents relating to the TIZA case are available on our website:

<http://www.aclu-mn.org/legal/casedocket/aclumnvtiza>.

### Inside This Issue

Page 2 .....From the President

Page 3 ..From the Executive Director

Page 4.....From the Legal Briefcase

Page 5 ..... From the ACLU

Page 6.....News from up North

Page 7.....Elections etc.

*Civil Liberties News*

(USPS # 114-860)

Subscription by Membership Only

PERIODICAL postage paid at Minneapolis, MN, and additional mailing offices.

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

# From the President

## Wallace Hilke



### Civil Asset Forfeiture

Imagine this headline “Cop Witnesses \$3,000,000 Theft And Refuses To Cooperate With Authorities!” Now imagine the next day’s headline “Another Cop Witnesses \$3,000,000 Theft And Refuses To Cooperate With Authorities!” Now imagine four weeks later reading the last related headline “Twenty-Ninth Law Enforcement Employee Witnesses \$3,000,000 Theft And Refuses To Cooperate With Authorities!”

If published in serial form, these still would not be the biggest headlines stemming from the Metro Gang Strike Force (MGSF) debacle. Sadly, the shocker would remain “County Attorney Drops Investigation Into Widespread Police Misconduct After Being Stonewalled By Uncooperative Public Employees And Missing Documents.”

Earlier this year, the State of Minnesota settled a class action lawsuit by creating a \$3,000,000 fund to which MGSF victims could apply for the recovery of property wrongfully seized under the administrative forfeiture law. Administrative forfeiture allows police officers to confiscate a suspect’s property if they believe it was used in connection with the commission of a crime. It effectively gives police the power to decide guilt and administer instant punishment. The burden then falls on the property owner to sue to recover the property. Police do not need to charge or arrest suspects before seizing their property.

Despite the State’s \$3,000,000 settlement, the Hennepin County Attorney recently issued his report and dropped further criminal investigation into the conduct of MGSF members without calling a grand jury. Had he called a grand jury, the County Attorney could have granted limited immunity to witnesses and learned the true story behind MGSF misconduct, while protecting the witnesses’ Fifth Amendment rights against self-incrimination. For example, this would have allowed the questioning of the former commander of the MGSF, who refused to be interviewed by

the County Attorney’s office about the alleged misconduct in the organization he led. The County Attorney’s report also claimed that further investigation was fruitless, because the MGSF had kept hopelessly inadequate records of the property it seized.

The County Attorney essentially created a roadmap for rogue cops: if you stay silent and keep lousy records, you can unlawfully take “suspects’” property with impunity.

The County Attorney’s refusal to fully pursue the MGSF’s misconduct is extremely important to civil libertarians, reminding us that we must continue to oppose administrative forfeiture as a law enforcement tool because it invites police corruption and cannot be regulated. More importantly, it deprives the accused of their property before their guilt has been established.

On first consideration it is hard to understand why law enforcement officers would want to deal with administrative forfeiture. After all, whenever the ACLU-MN proposes legislation asking the police to keep more thorough records (for example, the race of drivers in traffic stops), it is met with complaints that this would create too much paperwork for our overburdened law enforcement officers. Why then would police want to deal with all of the paperwork involved in properly recording \$55 confiscated from a suspected drug dealer? The answer lies in the conflict of interest imbedded in the forfeiture statute: the agency whose officer seizes property keeps 70% of the proceeds from all property not recovered by their owner. Incredibly, in legislative hearings last year, law enforcement officers testified that their departments opposed the elimination of civil asset forfeitures because they depended on these funds!

Administrative forfeiture is a core non-partisan civil liberties issue, touching on our right to due process prior to deprivation of our property. Several years ago, conservative Republican Congressman Henry Hyde led the successful effort to dramatically limit federal administrative forfeiture. Democrats and Republicans have joined in many states to reform their own forfeiture laws.

Last year our lobbyist Carolyn Jackson helped lead a coalition that brought substantial improvements to Minnesota’s administrative forfeiture law. The ACLU-MN will continue our fight and gather bi-partisan support to eliminate this inherently broken statute. discussing this issue with your friends; communicating with your legislator; and by making a gift to the ACLU-MN.

#### STAFF

Executive Director	Charles Samuelson
Legal Counsel	Teresa Nelson
Development Director	Doris Rubenstein
Education Coordinator	Jana Kooren
GMRJP Coordinator	Audrey Thayer
Lobbying Coordinator	Carolyn Jackson
Assist. To Executive Director	Molly Miller
GMRJP Office Manager	Gina Walters
Newsletter Editor	Molly Miller

# From the Executive Director

## Charles "Chuck" Samuelson



### 1984 All Over Again

This past fall, the FBI raided the homes of Twin Cities residents with a long history of peace activism. In addition they raided the homes of several residents of Chicago who, allegedly were similarly connected with the peace movement. According to published reports, these raids were as a result of FBI concerns that these people were materially supporting a terrorist organization or organizations that operated in Columbia and in the Middle East. As far as we know none of those whose homes were searched was arrested. However, they were all subpoenaed to appear before a Federal Grand Jury in Chicago investigating the "material support of terrorism".

Coincidentally, the Inspector General of the FBI issued a report a few weeks ago that criticized the FBI targeting Peace Groups for enhanced surveillance in the period shortly after 9/11/01. The report pointed out that associational rights were guaranteed by the First Amendment of the US Constitution. Naturally, the ACLU agreed that First Amendment rights should be protected.

Now it appears that it is back to business as usual at the FBI. Using the terrorist laws passed after 9/11; and the Executive Branch findings designating terrorist groups coupled with the increased technical ability of our computers the FBI came up with the list of usual suspects and they launched their raids. What makes this even more

scary is that the FBI is pushing their national data sharing model (NDEX) which will allow local law enforcement agencies (for example Ramsey County Sheriff Department) to share their files with the FBI and every other police agency in the country. Plus some police departments want to share their "intelligence" or "hearsay" files as well.

For most of us these Orwellian tactics bring a shudder but some people really believe that these tactics and technologies will make us safer. This is not a new conflict, in fact, the book, 1984, addresses just these issues. It was also the issues we faced in the 1960's and 1970's during the Vietnam War.

Once again the FBI is using First Amendment protected associational data in order to arrest people or to conduct search warrants. Then, too, they will be able to share whatever they find with every other law enforcement organization.

The more things change; the more they stay the same. And the ACLU must continue to diligently oppose these unconstitutional activities.

#### BOARD OF DIRECTORS

<b>President</b>	Wally Hilke	<b>Vice President</b>	Vance Opperman
<b>Treasurer</b>	Cassie Warner	<b>Secretary</b>	Chuck Silverman
<b>Affirmative Action Officer</b>	Raleigh Levine	<b>ACLU National Delegate</b>	Rebecca Rand

Howard Bass, Melanie Benjamin, Joel Bergstrom, Tim Branson, Nate Dybvig, Ron DeHarpporte, Sandra Feist, Anita Fineday, Burt Garr, John Gulla, Sam Heins, Tom Kayser, Carolina Lamas, Jonathan Lebedoff, Scot Milchman, Nicole Moen, Todd Noteboom, Bill Pentelovitch, TJ Pierret, Susan Harper Ritten, Leslie Sandberg, Bob Sykora

# Greater Minnesota Racial Justice Project Update

## Contributed by Audrey Thayer

On Constitution Day Eve (September 16, 2010), the ACLU-MN, GMRJP hosted a dinner featuring guest speakers who examined our First Amendment. We called the evening "Five Rights of Freedom, Our 1<sup>st</sup> Amendment" and we filled the room to capacity at the Sparkling Waters Restaurant in Bemidji.

Brad Swenson, Bemidji Pioneer Political editor, spoke about the 'freedom of the press'. He provided an historical viewpoint of how Minnesota law has played a significant role in the protection of First Amendment rights for the press, specifically newspapers. Brad also reminded us the definition of press is not limited to newspapers and periodicals, but includes every sort of publication used as a vehicle of information and opinions, even today's bloggers.

Tim Faver, Beltrami County Attorney, spoke to us about the 'right to assemble', and how it is robust and thriving today. He explained, however, that the freedom to assemble is not absolute and unlimited. Tim stated that the right to assemble is linked to our other freedoms such as religion and speech as people come together to protest and rally for support.

Chuck Samuelson, spoke on three sections of the first amendment, 'freedom of religion', 'freedom of speech', and 'the right to petition' the government. Because our evening event was so successful we will continue to plan for events in the future that will examine the other Amendments in The Bill of Rights.



Audrey Thayer presenting Bemidji Attorney Paul Kief with a certificate for over 20 years of ACLU membership.

On the evening of December 9, 2010, we hosted our annual Holiday Open House in a larger space adjoining our offices this year. We offered up holiday food and beverages to our community members, students and professors, business associates, and legal professionals to say thank you for all your support throughout this past year and prior years. We featured a local musician, Aaron Tank, who added to the festivity with his singing and guitar playing. Fifty or more people attended.



Holiday Open House (L-R): Juyi Lee, BSU Intern; Amanda Charwood, Leech Lake Work Training Program; Audrey Thayer, GMRJP Coordinator; Arnold LaJeunesse, Experience Works

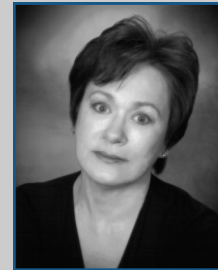
Our fiscal year is quickly coming to an end and we are falling short of our financial goals. We need your support today, please consider giving us an additional donation to help support our programs that protect civil liberties across the state of Minnesota. Here are some examples of what your donation can support:

\$50	Copies of police department records on Taser usage
\$100	Monthly travel cost for one court monitor in Northern MN
\$150	Supplies 75 teachers with ACLU Bill of Rights curriculum
\$260	Monthly subscription to Westlaw for legal research
\$250-500	Copy of a deposition taken by our opponents
\$300-350	Filing fee for one case
\$1,000-5,500	Court reporter fee for a one-day deposition
\$3,000-15,300	Expert witness fee

# From the ACLU

## Rebecca Rand

### Minnesota's National Delegate



## National Board Update

The ACLU National Board met Oct. 23 & 24<sup>th</sup> in New York. The meeting was preceded by a Friday night showing of the film “No Tomorrow” featuring our own Audré Herron, at-large national Board Member from Northern California. The film focused on the murder of Lisa Bejarans, and an earlier film about teen-agers leaving foster care, and how that film unexpectedly documented the last year of Ms. Bejaran’s life. The film was later used by prosecutors to argue for the death penalty, against the filmmakers wishes.

Elections were held for National Advisory Board members. Two Minnesotans were re-elected to that board; Matt Stark, former Executive Director, and Arvonne Fraser, women’s rights and peace advocate.

This was followed by staff reports, where we learned from the Washington office that the Disclosure Act is highly unlikely to become law, and from the development office of the successful completion of the Leading Freedom Forward Campaign, which concluded with a fabulous party on Ellis Island, underwritten by a generous donor.

Fred Askin, a dissenting member of the Campaign Finance committee, urged re-opening the Policy 35 discussion to consider amending our policy on disclosure. Currently, our policy supports anonymity for “political” speech and limited disclosure requirements for “campaign” speech. A motion to re-consider Policy 35 was defeated 35-35 on a roll- call vote.

The Governance Committee has embarked on a rigorous examination of the National Board to find ways for it to operate more efficiently. Several root causes of inefficiency have been identified, including board size (83), paths to board membership, procedural rules, and the culture of rigidity and formality, among others. Bill Ryan, who teaches governance in the non-profit sector at Harvard, addressed the board, He asserted “Any organization needs a very compelling reason to have

an 83 person board.” His presentation was followed by a panel of speakers representing the Sierra Club, Planned Parenthood, and the Gay Lesbian Victory Fund. Each spoke of what promoted the changes, how they were designed and implemented, and the benefits from those changes.

Meetings conclude on Sunday with a “roundtable”, updates from program staff on their current focus. Veeneta Gupta, director of the ACLU Center for Justice, provided an overview of our work in Criminal Law Reform, the capitol Punishment Project, and the Prism Project.

One long-long term goal is to shrink the prison population to half it’s present size. The United States has 5% of the world’s population and 25% of it’s prisoners. In 1975, we had 300,000 prisoners, and today we have over 2 million. Our current fiscal problems, both federally and in the states, provide a window of opportunity to work with both conservatives and progressives on this Issue, and we’ve had recent success in Mississippi in significantly reducing the inmate population.

There are a variety of causes for this unsustainable explosion, chief being the unwinnable drug war, but Ms. Gupta also sighted prison guard unions, private prison operators, and single issue advocacy groups, whose solution to every problem has been longer sentences. .

The Bi-Annual is set for June, 13 in Orlando, details to follow.

STAFF	
Executive Director	Charles Samuelson
Legal Counsel	Teresa Nelson
Development Director	Doris Rubenstein
Education Coordinator	Jana Kooren
GMRJP Coordinator	Audrey Thayer
Lobbying Coordinator	Carolyn Jackson
Assist. To Executive Director	Molly Miller
GMRJP Office Manager	Gina Walters
Newsletter Editor	Molly Miller

# Development Update

## Contributed by Doris Rubenstein

The end of 2010 saw an unprecedented campaign for the ACLU-MN Foundation. A generous member of our Board of Directors offered to donate \$200 for each individual gift of \$1,000 or more. As a result, the ACLU-MN Foundation's war chest is now \$45,000 heavier! Thanks to all who participated in this successful effort.

Large contributions give a boost to the bottom line and allow the ACLU-MN to set our sights high when it comes to defending the Bill of Rights. But we're not forgetting those who provide the bread and butter to fuel our ongoing programs. Of our more than 7,000 supporters, there are nearly 500 households that have been consistent members and donors for more than twenty years – never missing a year without a dues payment or a donation.

This coming June, the ACLU-MN will be honoring those amazingly loyal members during an event featuring a speaker from ACLU's New York headquarters. We know that this will be an inspirational occasion. What a landmark event to have so many like-minded civil libertarians together in one place!

We already have a committee of ACLU members working to make sure that these dedicated supporters of freedom will receive the recognition they so richly deserve. *Have you* been an ACLU member for more than twenty years? Do you have friends in that category? Watch your mailbox in late springtime for an invitation. All friends of the ACLU are welcome.

Whether you've been giving for twenty years or for two, we appreciate your generosity and your encouragement to keep fighting for freedom.



Mr. and Mrs. Bob Beery at the Rochester event.

## Getting Up-Close and Personal with ACLU-MN

ACLU members were able to meet with ACLU-MN Director Chuck Samuelson and Board members at several events since the last newsletter.

## Rochester, MN

ACLU Members Cynthia Daube, Kim Edson, and Donald Layton hosted a group of members to celebrate the ACLU's 90<sup>th</sup> anniversary in Rochester in October. In addition to hearing an update on ACLU-MN activities, members Phyllis and Robert Beery, Cynthia and Jasper Daube, Phyllis and Donald Layton, Marian and Richard Van Dellen, and Ronald Zins were awarded certificates for more than twenty years of uninterrupted membership. Congratulations to our loyal friends and thanks to all who attended.



Hosts of the event in Rochester (L-R):

## ACLU on Ice

Just because you're a civil libertarian doesn't mean that you're not a hockey fan! Thanks to a generous Board Member, two groups of ACLU members were treated to private-box seats at the Xcel Center in St. Paul to enjoy watching the Minnesota Wild battle against the Dallas Stars and the Vancouver Canucks. There was plenty of time between goals for guests to wage their own battle of words about the civil liberties currently at risk in Minnesota.

## Legislative Update

### *Contributed by Carolyn Jackson*

We heard a lot of references to the Constitution in the 2010 election. While the references were generally not made by civil libertarians, what a great teaching opportunity! We have distributed copies of the United States and Minnesota Constitutions to the new members of the Minnesota Legislature. We offer free constitutions to *anyone* who wants to know what they say.

For the conversation is just beginning. The divided outcome of the Minnesota elections means that the Legislature may consider a number of amendments to the Minnesota Constitution in order to bypass a veto. (In Minnesota, a constitutional amendment requires a simple majority vote in the Legislature and a majority of votes cast in the next general election. The Governor does not have a veto.) The protector of our rights and foundation of our government, the Minnesota Constitution, may be headed for a makeover.

What does the ACLU have to say about that? A LOT! The Bill of Rights protects the rights of individuals against the tyranny of the majority. The Civil War Amendments extend the Bill of Rights to state and local government, and settled the question of whether States have to obey federal law. The Minnesota Constitution has even greater protections for individuals than the United States Constitution, and should not be used as a vehicle for “initiative and referendum”, making Minnesota as volatile as California. When these protections come under scrutiny, we all need to speak out.

When the conversation turns to the Constitution, what would you say? The First Amendment alone states six protections for limiting government power (no establishment of religion, free exercise of religion, freedom of speech, freedom of the press, freedom of assembly, and the right to petition the government). The Fourth Amendment protects the privacy of our bodies and our homes. The Fourteenth Amendment extends your rights to all levels of government and protects the liberty of all people in the United States. And the Minnesota Courts say the Minnesota Constitution offers all those protections with even more strength.

## Tributes

### **In Memory of Robert G. Oien**

#### **From:**

A.L. Oien  
Neil and Janet Dieterich  
Wanda L. Lorentzen  
Joseph M. and Bettie M. Friberg

### **In Memory of Mark F. Feshbach**

#### **From:**

David and Ruth Waterbury  
Benjamin and Aroti Bayman  
Laura Cooper  
Juanita and Richard Luis  
Mark and Mary Jo Nissen  
Kay E. Miller

### **In Memory of Virginia Luckhurst Harr**

From David and Dorie Reisenweber

### **In Memory of Mary Reed Shepard**

From John and Sage Cowles

### **In Memory of Ruth Levine**

From Paul and Rhoda Redleaf

### **In honor of Evelyn Norton and Daniel Oberdorfee wedding**

From Jonathan Lebedoff

### **In honor of Jana Kooren and JaPaul Harris on the birth of their son Miles**

From the ACLU-MN staff and volunteers

*Tributes are contributions made to honor or remember special friends, family, colleagues and occasions.*

*To have your tribute appear in Civil Liberties News, please contact Molly at 651.645.4097 x127; mmiller@aclu-mn.org or 2800 Myrtle Ave, Suite 180, St. Paul, MN 55114.*

Civil Liberties News

2300 Myrtle Ave  
Suite 180  
St. Paul, MN 55114

ACLU-MN Foundation Contribution Form

Mail completed form and your tax-deductible contribution to:  
ACLU-MN Foundation ■ 2300 Myrtle Ave ■ Suite 180 ■ St. Paul, MN 55114

Name (please print)

Address

Email

Here is my tax-deductible gift of \$ \_\_\_\_\_ to support the work of the ACLU-MN Foundation.

Method of Payment

Money Order

Check

Visa

MasterCard

American Express

Credit Card #

Exp. date

Signature

The ACLU-MN Foundation (ACLU-MN Foundation) is a 501(c)(3) nonprofit entity organized to help maintain and defend the rights of free speech, free press, free assemblage, and other human and civil rights and liberties secured by law; to provide legal defense of civil liberties secured by law for those persons who cannot afford to pay for the same; and to provide public education in civil liberties issues. The ACLU-MN Foundation fulfills its mission through programs and services provided by the American Civil Liberties Union of Minnesota (ACLU-MN).