

ACLU

Minnesota

CIVIL LIBERTIES NEWS

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GREATER MINNESOTA RACIAL JUSTICE PROJECT

IMMIGRANTS FIND PERILOUS NEW REALITY IN MINNESOTA

Maria de Jesus de Pineda came to the United States seeking refuge. Her native Honduras is so dangerous, it ranks as one of the murder capitals of the world.

Gangs were trying to force Maria and her older brother to join. They kidnapped her brother, tortured him, and tried to extort money from her. Eventually, they killed him.

Escaping was the only way to keep her 11-month-old and 2-year-old children safe.

“We were very scared,” she said. “I was still breastfeeding, but I had to leave because they (gangs) were pursuing me. My kids were in danger. That’s why I came to this country.”

She arrived in 2007, leaving her children behind until she could make enough money to send for them. It took her almost nine years.

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GIRDING FOR BATTLE



John Gordon
Executive Director

Governmental attacks on our civil liberties are nothing new.

That's why the ACLU of Minnesota has been around for nearly seven decades. We've needed to remain vigilant and hold government accountable in every administration, at all levels of government.

What's been so unusual in the past few years is how explicit and frequent these attacks have been at the national, state and local levels. We have to look hard to find a bright side. But these assaults on our rights have energized people to support the ACLU and to create a sense of community based on our shared

values that is even stronger than our shared sense of alarm. ACLU of Minnesota supporters are breaking records for membership, event attendance, volunteerism and donations.

Thanks to your support, ACLU-MN has had a productive and busy 2018, and has even bolder plans for 2019. In 2018, we sued to stop county sheriffs' unlawful compliance with ICE, to address excessive force by police and to end discriminatory housing ordinances. We helped defeat state legislative efforts to criminalize protests. We knocked on more than 10,000 doors in disenfranchised neighborhoods, encouraging people to vote and helping empower them to hold elected officials accountable for racial justice.

There is a lot of work ahead. In Minnesota, too many groups still aren't allowed to participate fully in our democracy. Our state ranks second-worst for racial inequality in education, home ownership, income, unemployment and mass incarceration. We must change that through legislation, litigation and advocacy.

A new Legislature and governor bring the possibility of laws to improve the treatment of immigrants, restore voting rights and promote racial justice. We look forward to getting things done, rather than playing defense to stop policies that strip away our rights.

Through it all, we will keep building up the American Civil Liberties Union of Minnesota to ensure our organization is sustainable and enduring. We are growing quickly but responsibly. We are adding new staff who are energized and dedicated to making sure we remain the state's premier civil liberties organization. We plan to create even more opportunities for you to engage with ACLU-MN and other like-minded people at events, policy briefings and a legislative lobby day.

Governmental attacks on our precious civil liberties will never end, no matter who is in power. Thanks to you and your continuing support, ACLU-MN will be there to fight them.

ACLU-MN WINS SETTLEMENT IN EXCESSIVE FORCE CASE

Anthony Promvongsa won a \$60,000 settlement from the Buffalo Ridge Drug Task Force and the City of Worthington as a result of his lawsuit challenging their maltreatment of him during a 2016 traffic stop.



“I feel vindicated and relieved to put this horrendous incident behind me,” Promvongsa said. “While no amount of money can bring back a feeling of peace, this settlement shows what happened to me was wrong and the police are making changes to ensure it never happens again.”

As part of its settlement with ACLU-MN, the City of Worthington agreed to a number of significant policy changes:

- Officers must document witnessing use of force in their own reports.
- Officers must detail their own use of force within five days.
- Superior officers must review all available video and incident reports before signing off.
- Supervisors on the scene cannot approve use of force reports.
- The police chief must annually review use-of-force reports.

- Any officer who fails to report use of force, delays doing so or is deceptive about it will face discipline.
- Annual, certified training of officers on use of force, felony stops and de-escalation.
- Making citizen complaints easier to file by extending the deadline and making forms available online.

“We hope both law enforcement groups recognize the abuse and mistreatment by police of the people they are sworn to protect and serve is unlawful, immoral and it damages the relationship between police and the community,” said ACLU-MN Legal Director Teresa Nelson. “Residents of Worthington should be empowered to step forward if more abuses occur because the complaint process is more accessible and usable.”

In July 2016, Promvongsa was pulled over by drug task force agent Joe Joswiak and Worthington Police Sgt. Tim Gaul after being accused of tailgating two off-duty task force agents. Joswiak rushed the vehicle with his gun drawn and started screaming at Promvongsa to “Get out of the car, mother f---er, show me your f---ing hands.” Joswiak yanked open the door, then repeatedly punched and kned Promvongsa inside the vehicle. Attorneys in the case were Jen Cornell and Allyson Petersen of Nilan Johnson Lewis along with Ian Bratlie and Teresa Nelson of the ACLU-MN.

NEWS UPDATES

WHAT YOU NEED TO KNOW

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

ACLU WINS INJUNCTION AGAINST ANTI-IMMIGRANT POLICIES // A federal court struck down Trump administration policies that would have wiped out asylum protections for immigrants fleeing domestic violence and gang brutality. Under those policies, asylum officers were told to “generally” deny such claims. U.S. District Court Judge Emmet Sullivan ruled “there is no legal basis for an effective categorical ban” on such claims. He granted the ACLU’s request for a permanent injunction.

NEW LAW USHERS IN “FIRST STEP” TO CRIMINAL JUSTICE REFORM // Congress passed and President Trump signed the First Step Act into law. It increases opportunities for rehabilitation, offers more credits for “good time,” bans practices like shackling pregnant inmates, and reduces mandatory minimums for some drug-related crimes. While it doesn't go far enough, it is indeed a first step. We'll keep fighting to end mass incarceration.

ACLU PUSHES AGAINST ROLLBACK OF CIVIL RIGHTS LAWS // The administration is considering rolling back and even removing anti-discrimination regulations in areas including housing and education. “It is shameful that this administration is considering dismantling tools to fight discrimination rather than using its power to foster respect for the dignity and equality of all people,” said ACLU deputy legal director Jeff Robinson.

HONOREE PROTECTS THE RIGHTS OF THE VULNERABLE



Earl Larson Award winner professor Eric Janus enjoys a light moment before the award ceremony.

Professor Eric Janus is challenging us to defend the rights of even “despised groups of outsiders” to ensure everyone’s rights remain protected.

4 ACLU-MN honored Janus with the 22nd annual Earl Larson Award for his lifelong commitment to justice and civil liberties. The award is named after one of ACLU-MN’s founders, Judge Earl Larson.

We also presented our first-ever Changemaker Award to NAACP Minneapolis at a record-setting evening on Nov. 28.

“Eric’s work reminds us that in a free society, the civil liberties of all citizens must be protected,” ACLU-MN Board Chair Jonathan Abram said. “The ACLU will always stand up for the disenfranchised, the disadvantaged and the disregarded. Our partnership with the NAACP reminds us that our defense of individual freedoms in the Constitution must always be combined with a commitment to racial justice and equal protection.”

Janus, a Mitchell | Hamline law professor, is a leading expert on sexual violence law. He has worked with ACLU-MN to challenge the indefinite detention of people in the Minnesota Sex Offender treatment program.

“We have a long and persistent history of taking our revolutionary and inspiring concept of ‘We

the People’ and excluding whole classes of people,” Janus told the crowd. “This is a disgraceful legacy.”

Janus has spent his career fighting that legacy and protecting the excluded, including welfare recipients, clients with mental illness and sex offenders who are locked up “for their predicted future crimes.”

More than 700 former sex offenders in Minnesota and 5,000 people nationally are held under these “pre-crime” laws, Janus said. These laws throw people’s constitutional protections out the window, including the right to be free of physical confinement, to proof beyond a reasonable doubt, to a trial by jury, and to be free from compelled self-incrimination.

These laws take us down a dangerous path, especially in a time of rising racist, white nationalist, homophobic and anti-immigrant rhetoric.

“They give currency to the notion that our Constitution is OK with the designation of despised groups of outsiders whose members have ‘no rights’ that the state must respect,” Janus said, adding that we must resist the legitimization of this view.

Retired Minnesota Supreme Court Justice Helen Meyer presented the award.

PARTNERS FOR RACIAL JUSTICE



Minnesota wins top marks as one of the best places to live in the nation in multiple categories, including education, parks, health care and other important marks of quality of life.

“But we have to ask, the best for whom? Not for many people who look like me,” NAACP Minneapolis Leslie Redmond said. “We have to start caring before the individual looks like us. We have to start caring even when people aren’t a part of our legal community.”

“We have to recognize where much is given, much is required.”

ACLU-MN’s first-ever Changemaker Award went to the NAACP on Nov. 28. It recognizes people and groups in the forefront of the struggle for justice and equality. Hennepin County District Judge Toddrick Barnette presented the award.

ACLU-MN has partnered with NAACP Minneapolis on multiple projects, including the release of our report on racial disparities in policing, Warrant Resolution Days, and litigation to increase police transparency.

Redmond challenged ACLU supporters, particularly lawyers, to get even more involved in the right for racial justice.

“Lawyers, especially in Minnesota, have been given a lot,” she said. “We have to recognize where much is given, much is required.”

“People don’t move because they see the light,” she added. “Sometimes they move because they see the fire. Right now in this political climate, a lot of people are feeling the fire. I thank God they are feeling the fire, because we have been feeling the fire for way too long, and it’s hard to fight in this journey alone.”

STAFF UPDATES

WELCOME ACLU NEW STAFF

We have a busy 2019 ahead of us. In order to continue to protect and advance civil liberties in our state, we have hired new staff to help us make sure all Minnesotans can access their basic, fundamental rights.

Say hello to our growing staff!

Julia Burman is Operations Manager based in the Twin Cities. She makes sure that all systems in the office are functioning. She has more than three decades of experience in community development and as a program or project manager. She is proud to put her skills to work behind the scenes to help defend our constitutional rights.

Rodrick Fields is the Philanthropy & Volunteer Coordinator. He will increase volunteer opportunities and streamline our giving processes. He has 25 years of experience in the private and nonprofit sectors. Before joining ACLU-MN, he was a business owner and operations director.

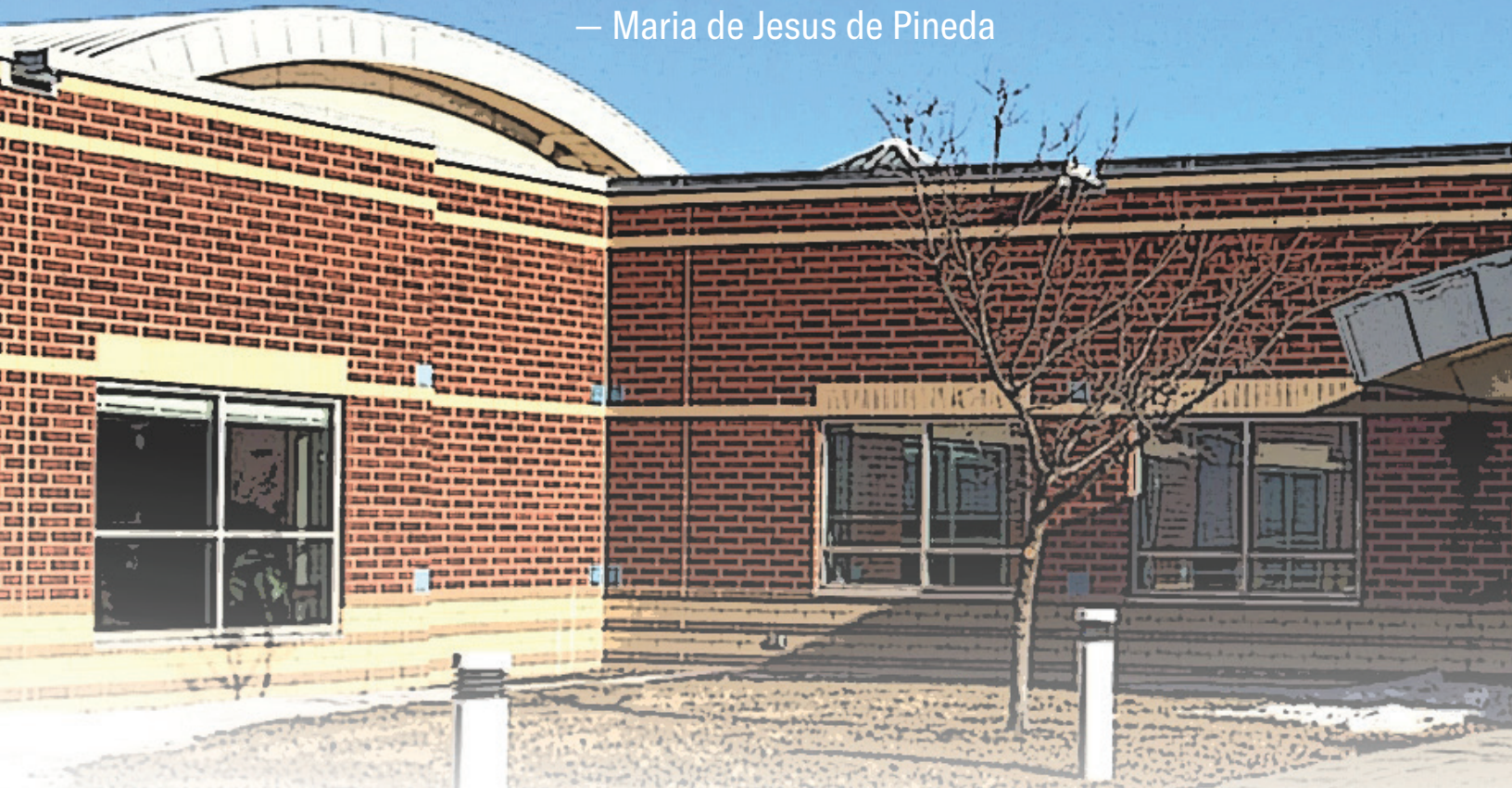
Casey Finne is our Finance Manager. She has 20 years of accounting and database management experience. She is passionate about protecting and maintaining people’s rights.

Lynette Kalsnes is our new Communications Director. She previously worked at AFSCME Council 5 as communications coordinator; and as an editor, reporter, trainer and project manager at Chicago Public Radio. Before that, she was a reporter at several newspapers including the Chicago Tribune.

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“THE FACT WE DON’T HAVE PAPERS DOESN’T MEAN THAT WE’RE NOT HUMAN. WE HAVE RIGHTS.”

— Maria de Jesus de Pineda



IMMIGRANTS

...CONT'D FROM PAGE 1

Her troubles didn't end there. Maria married a man who began to abuse her, then had to support her children as a single mom.

Now she's one of at least a dozen immigrants who were unlawfully detained by the Nobles County Sheriff's Office in southern Minnesota in 2018. Sheriff Kent Wilkening is keeping people in jail and holding them for ICE – without probable cause, a judicial warrant or authority under state law – for days, weeks and even months.

The Sheriff's Office is doing so even after people:

- Posted bond.
- Had their cases dismissed.
- Completed their sentences.
- Were released by a judge on their own recognizance.

That's why the ACLU-MN's Greater Minnesota Racial Justice Project (GMRJP) filed a class-action lawsuit in state court with attorneys Ian Bratlie and Teresa Nelson from ACLU-MN and Norm Pentelovitch of Anthony Ostlund Baer & Louwagie.

We want to stop Nobles County and its Sheriff from violating people's rights to due process, to bail and to freedom from unreasonable seizures under our state Constitution.

We won a Temporary Restraining Order (TRO) to stop Nobles County from unlawfully holding immigrants for ICE. The County and Sheriff are appealing that TRO to the state Court of Appeals.

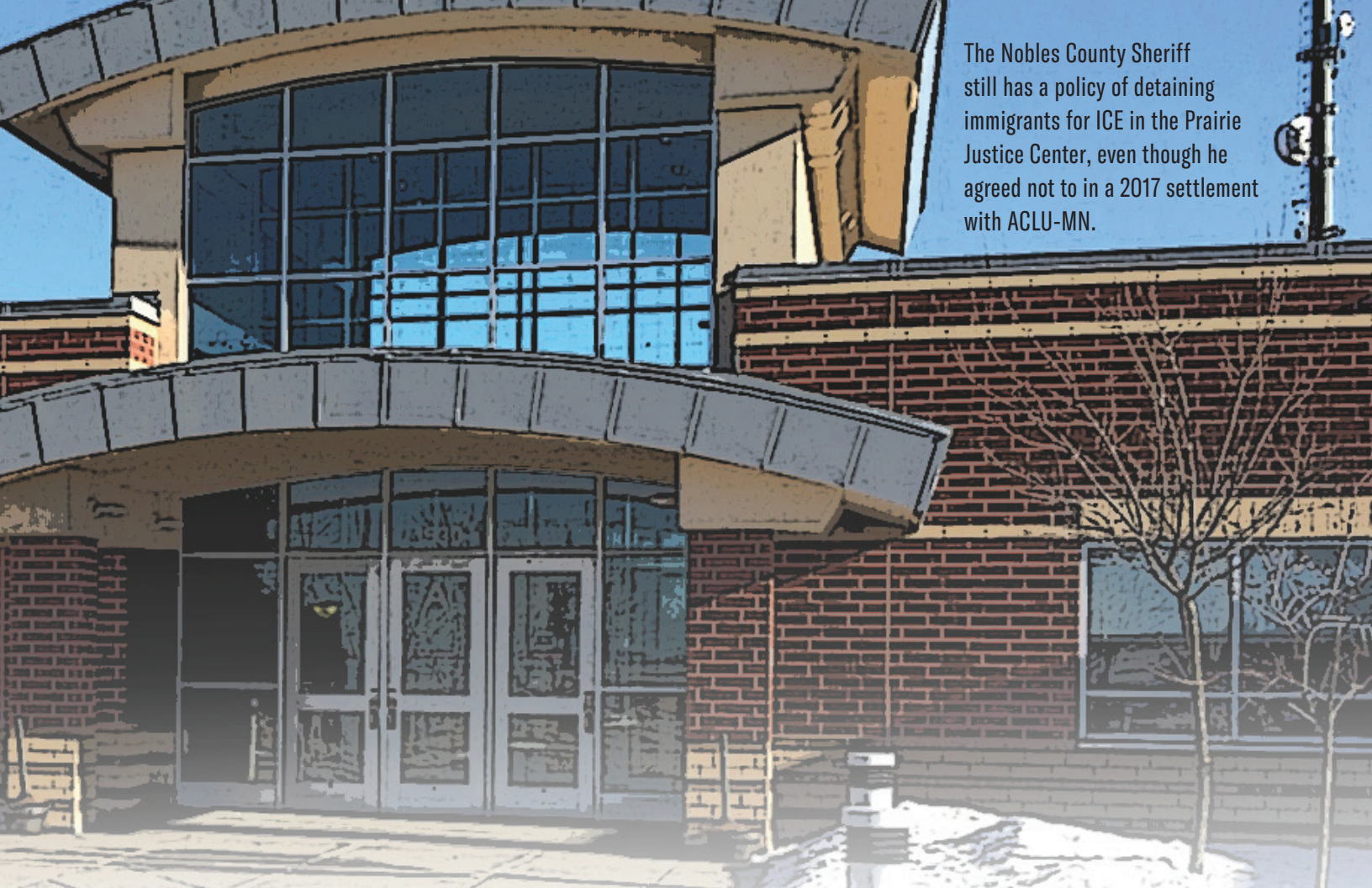
This is the second time ACLU-MN has sued the Sheriff over this. Even though he agreed not to unlawfully detain immigrants as part of a 2017 settlement, he's still doing it.

“The Sheriff is just flat-out violating federal and state law,” said Bratlie, with the GMRJP. “He knows he's doing it, and he's continued to do so without making changes to policies or procedures that protect the inmates. It's egregious.”

“Being in the United States out of legal immigration status, whether you're undocumented or you overstayed your visa, that's not a crime,” Bratlie added. “Our state Constitution protects all persons.”

26 DAYS IN JAIL AND TWO BONDS LATER

Maria de Jesus de la Pineda's case is a textbook example of how the Sheriff's Office has violated people's rights. Maria was arrested and charged with identity theft for having documents that allowed her



The Nobles County Sheriff still has a policy of detaining immigrants for ICE in the Prairie Justice Center, even though he agreed not to in a 2017 settlement with ACLU-MN.

to work and support her family. Her sister posted a \$10,000 bond for her, but the jail didn't release Maria – deputies held her for ICE.

Then on her state court hearing date, deputies didn't escort her from the jail to the courthouse – even though they are in the same building. The judge issued a bench warrant because Maria wasn't in court – through no fault of her own.

That warrant quickly came back to haunt Maria. When ICE released her after she paid another bond, this one set by an immigration judge, she was immediately arrested again on the state court warrant. Deputies brought her back to Nobles County, where she finally was released.

All told, Maria spent 26 days in jail and paid two different bonds. That happened even though every time she saw a judge, she was ordered released because she was not a danger to the community or likely to flee.

Maria is not alone: Data the ACLU-MN obtained shows Nobles County held about 270 people for ICE in just three months last year – and made a lot of money doing so. And these cases are happening across our state and nation.

LIVING IN FEAR

“You can't even imagine the psychological damage this

has done,” Maria said. “You're inside. You're fearing every second you're going to be deported to a country you're fleeing. It's been so hard to be separated from my children. I couldn't sleep. I was just stricken with fear. I was scared in my country. Now I am scared here.”

Her kids live in fear now, too.

“When I leave, they say, please don't leave, they're going to arrest you again,” she said. Her youngest – a U.S. citizen – was so scared he would be arrested when he visited her in jail that he urinated in his pants.

Now we believe deputies are harassing Maria. County sheriffs showed up at her door in mid-December and arrested her in front of her children, in her pajamas, based on an invalid warrant.

Still, Maria fights on. She wants the ACLU-MN class-action lawsuit to ring out far beyond the boundaries of her small town: She figures the more public this becomes, the safer immigrants will be.

“It's not OK that they're violating the rights of people, of human beings,” Maria said. “The fact we don't have papers doesn't mean that we're not human. We have rights. What happened to me, it could happen to hundreds of people here if I don't say anything.”

visit aclu-mn.org for more information

EMPOWER NEIGHBORHOODS, END MASS INCARCERATION

When someone enters the criminal justice system, it can feel to the family like that person is going into a black hole.

The person facing charges is locked away into a system where phrases like “habeas corpus” and “prima facie” are tossed around.

When inmates call from jail or prison, they may not have time to explain where their legal case stands – call time is limited. They want to know how their family is doing, but some prisoners have been charged up to \$14 per minute, and the courts have shot down attempts to rein in this price gouging.



ACLU-MN Smart Justice team members help get out the vote.

“All parents know is their son is inside the black box,” said ACLU-MN Campaign for Smart Justice organizer Elizer Darris. “They’re in the dark. Nobody is explaining the legal system to them. They have no support. They don’t feel like they have a voice.”

Those were some of the common concerns that ACLU-MN Smart Justice team members heard while going door-to-door for the midterm elections in disenfranchised neighborhoods. They didn’t canvass for any candidates – the ACLU is nonpartisan.

The Campaign for Smart Justice:

- Knocked on 10,000 doors in North Minneapolis and Saint Paul.
- Hosted community events.
- Boosted voter turnout in several precincts by as much as 26 percent.

They door-knocked to end mass incarceration, to help voters understand the powerful role that county attorneys play in reinforcing racial disparities, and to increase voter turnout.

“We were empowering them to give voice to their experiences,” Darris said. Some residents said they felt railroaded into plea bargains. Others noted the over-policing of their streets, with squad cars constantly driving by, but officers rarely leaving their vehicles to talk and build relationships.

Some residents with past convictions were surprised and even elated to discover they were eligible to vote. ACLU-MN helped them register on their doorsteps.

Most of all, Darris said, he saw people who wanted to vote and change the system. ACLU-MN will build on this momentum through legislative, legal and community action. More forums and meetings with policy makers are planned, along with a community advisory panel. We’ll keep working to persuade prosecutors to help reform the system.

“I think North Minneapolis sent a signal this election cycle,” Darris said. “We are the elected officials’ bosses. We put them in place. We’re not asking for favors – we’re demanding results.”

ACLU-MN's 2019 LEGISLATIVE PRIORITIES

VOTING RIGHTS RESTORATION

The ACLU of Minnesota supports restoring the right to vote for people with felony convictions who are living in the community.

More than 63,000 people in Minnesota can't vote because they're on probation or parole. One in eight Black men is currently prohibited from voting. The law disproportionately disenfranchises people of color and prevents them from playing a crucial role in our democracy.

CRIMINAL JUSTICE REFORM

Forfeitures

Minnesota law enforcement seized and kept or sold more than \$7 million in cash and property in 2017 through civil forfeiture.

Forfeiture creates an incentive for law enforcement to seize money and property to feed their bottom line. To try to get their property back, people facing criminal charges must file a separate civil action. Those who can't afford to hire another lawyer often end up losing their property, which deepens the disparities in our criminal justice system.

ACLU-MN supports replacing civil forfeiture with criminal forfeiture so criminal cases and assets are handled together, and then giving any proceeds to the state general fund to eliminate incentives to "police for profit."

Fines and Fees

Our system of driving-related fines and fees is set up so low-level offenders face quickly escalating consequences. People who can't afford to pay their tickets can lose their licenses and then their jobs. This system has a disproportionate impact on communities of color and people with low incomes.

We support reforming fines and fees: No one should lose a job or go to jail because they can't pay their tickets.

Probation

While Minnesota still has a relatively low incarceration rate, our rate for probation and supervision is the fifth highest in the nation.

Long probation sentences, coupled with technical violations for minor things such as missing a probation check-in, make it all too easy to end up back in prison. These factors worsen racial

disparities in our criminal justice system and increase mass incarceration. Reform is necessary.

SURVEILLANCE, PRIVACY & TECH

Drone Privacy

Government use of drones is not regulated under state law, so drones can be used for surreptitious surveillance. Unwarranted drone use by law enforcement presents a significant threat to personal privacy rights.

The government should be required to obtain a search warrant before using drones for surveillance.



Cell Phone Location Tracking

Minnesota's 2014 cell phone location privacy law included reporting provisions and required notifying people if their devices were tracked. That reporting isn't happening the way it should.

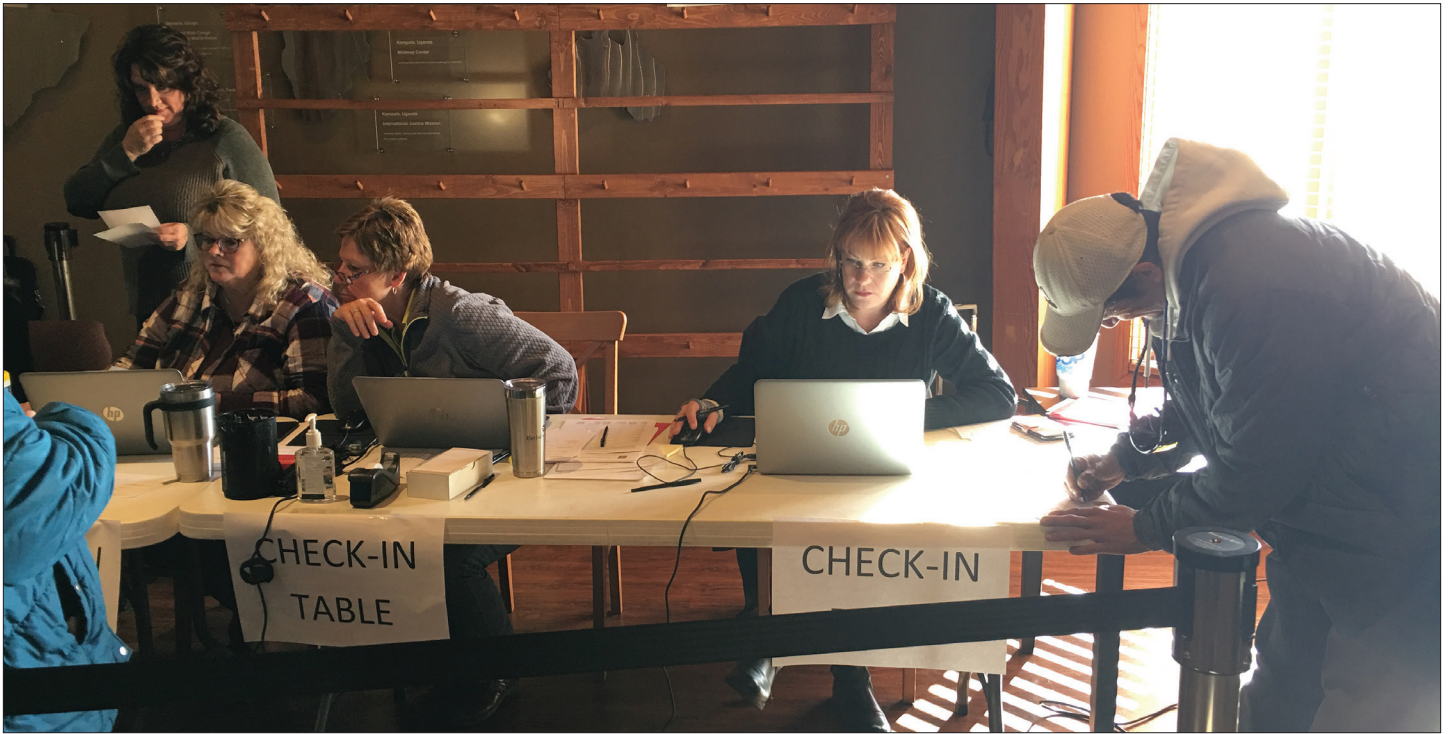
The Legislature should clarify the law's intent and require courts to unseal cell tracking warrants and to meet reporting requirements.

CONTROLLING YOUR OWN DATA

Our laws are not keeping pace with technology. Minnesotans must take control of our personal data.

- Access to student data by schools and third-party vendors should be regulated.
- Employers, schools and landlords should not be allowed to force employees, students and tenants to provide access to personal social media accounts and web pages.
- Emails and texts kept on a server for more than 180 days are considered "abandoned." State law should provide reasonable privacy protections for Minnesotans' emails and electronic information where federal law has failed to do so.

OFFERING A SAFE PLACE TO RESOLVE WARRANTS



When BeBe’s husband had a DUI warrant out, he was so afraid of getting arrested that he stopped leaving the house.

He was afraid the car would get towed, or he’d get arrested when his wife was at work, leaving the kids home alone. He stopped going to work and lost his job, then couldn’t find a new one. He even quit doing simple errands like going to the grocery store. The financial and emotional stress was enormous.

“It was bad,” BeBe said. “We were fighting a lot. It made everything hard, everything. It affects every part of your life.”

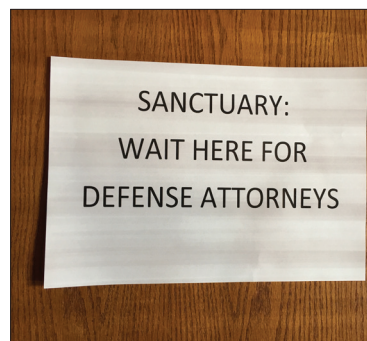
When the Eagan couple heard about Dakota County’s first Warrant Resolution Day – co-sponsored by ACLU-MN and NAACP Minneapolis – they feared it was a trap. They waited in the parking lot until they saw people coming back out, just to make sure no one was getting arrested.

The Nov. 17 event allowed people with misdemeanor warrants and traffic tickets to deal with those warrants and underlying offenses in one stop.

Public defenders, prosecutors, judges and probation officers were on hand, along with various social service agencies. Participants could create payment plans for fines, start the process of reinstating their driver’s licenses and schedule new court dates.

The event cleared 80 warrants from four counties,

plus traffic tickets, according to Dakota County Criminal Court Operations.



That means that BeBe’s husband– and hundreds of others who took part in previous Warrant Resolution Days in Ramsey and Hennepin Counties – now can go to work or drive their children to school without fear of arrest

because of outstanding warrants or tickets.

“I feel really happy,” BeBe said. “I feel better. There’s less stress on me, less that I have to do now. We have three kids and I’m pregnant, so it was a lot. I had to do everything.”

Racial disparities in arrests, even for low-level charges, are striking. A 2015 ACLU study of Minneapolis found that Black people were 8.7 times more likely than white people to be arrested for low-level offenses, while Native Americans were 8.6 times more likely to be arrested than white people. Those interactions can end in death, especially for people of color, said Leslie Redmond, president of the NAACP Minneapolis.

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(Left) Lisa Erickson gets a book signed by ACLU National Legal Director David Cole, who visited our office Nov. 14. He told a crowd of 30 people, including Earl Larson sponsors and law students, about his work fighting the administration's threat to our civil liberties.

(Right) Steve Miles and Joline Gitis hosted a party Nov. 19 for some of our generous donors that included a post-election briefing by MinnPost's Susan Albright. The 35 people who attended also heard updates from ACLU-MN's Executive Director John Gordon and Legislative Director Ben Feist.



A SAFE PLACE

...CONT'D FROM PAGE 10

“The warrant forgiveness days provide us an opportunity to relieve people of that stress, to recognize that in Minnesota, we have some of the worst disparities in the nation, and we have to move proactively and fight for justice,” Redmond said.

First Judicial District Judge David Knutson said there are many reasons people can't show up for court, including a lack of transportation, fear of missing work, or not knowing a warrant was issued because they moved.

“We're trying to assist people to move on in their lives and correct their behavior,” the judge said. “It was pretty powerful to see these lives kind of restored.”

That was the case for Jhawn, who didn't even know he had a warrant until he got a call about Warrant Resolution Day. He paid his \$250 fine and quashed his warrant.

“I had to take care of (my warrant) sometime or other,” he said. “It was real quick, it was real easy, and it's done. It feels real good – it feels sunnier out now.”

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Newsletter of the American Civil Liberties Union of Minnesota

SAVE THE DATE
April 10

ACLU-MN LOBBY DAY

Stand up for our civil liberties with the ACLU of Minnesota at the State Capitol! Have an ACLU T-shirt or other gear? Please wear it.

10-11 a.m. – Rally at the Rotunda
11 a.m. to noon – Meet with legislators

Visit aclu-mn.org to sign-up for our mailing list.

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