



ACLU

**AMERICAN CIVIL LIBERTIES UNION
of MINNESOTA**

CIVIL LIBERTIES NEWS

Published quarterly in Spring, Summer, Fall, and Winter

Publication Office:

450 North Syndicate Street, Suite 325
St. Paul, MN 55104

Volume 40 Spring 2010 Issue 01

ACLU-MN defends free speech rights

The American Civil Liberties Union of Minnesota filed an *amicus curiae* brief in support of a woman who was convicted of falsely reporting police misconduct. The ACLU-MN argued that this statute violates constitutional rights in a number of ways. Although knowingly false statements do not enjoy protection under the First Amendment, the U.S. Supreme Court has held that the government may not single out a sub-set of unprotected speech based on the viewpoint of the speech; this statute violates that rule by punishing only false speech made against peace officers. The law singles out false reports of police misconduct (both criminal and non-criminal) and subjects them to harsher punishment than a general false report of a crime. By singling out speech critical of police officers, this statute engages in viewpoint discrimination because it punishes only anti-government speech.

The statute imposes an additional layer of intimidation that likely has a chilling effect on genuine victims of police misconduct who may wish to report that misconduct. When an individual files a complaint against a police officer the investigator generally informs the individual that any knowingly false report of police misconduct is a crime. When faced with that proposition, the individual might consider the odds stacked against him. The fear that because the same entity against which the accusations are made is also the one investigating the complaint charges, they may believe that the complaint was made in retaliation, and that his accusation will be denied and not be believed by the

continued on page 7

ACLU-MN honors student with activist award

Inside This Issue

Page 2 From the President
Page 3 From the National Delegate
Page 4 Legislative & GMRJP Update
Page 5 - 8 Annual Meeting Information

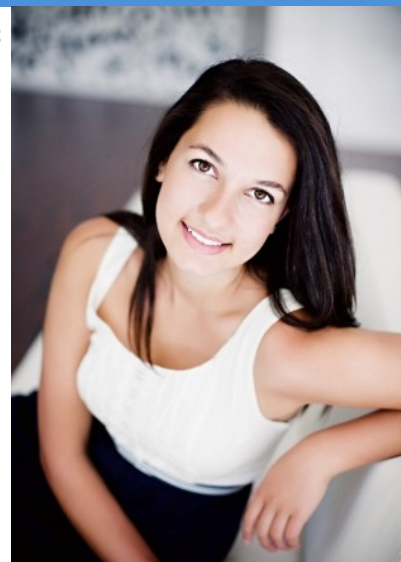
Civil Liberties News
(USPS # 114-860)

Subscription by Membership Only

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

POSTMASTER: Send address changes to Civil
Liberties News, 450 N. Syndicate, Suite 325, St.
Paul, MN 55104

The ACLU-MN is pleased to announce that it is honoring Shara Mohtadi with the 2010 Young Activist Award which is given to a high school senior who has an outstanding commitment to civil liberties. Shara Mohtadi is a senior at Edina High School. She has an excellent academic record and a bright future ahead of her. As a young woman she has already accomplished many amazing tasks. She spearheaded a campaign in her community to educate others on the genocide in Darfur, and founded the first Student Anti-Genocide Coalition (STAND) high school chapter in Minnesota. She serves on the board of the Edina Human Rights and Relations



Shara Mohtadi

Commission and still manages to rank in the top one percent of her high school class. When asked where she would see herself in ten years she responded: "All I know is that I will be working towards helping those not born with the same opportunities I've had." The ACLU will be honoring her with an award during their Annual Meeting on April 24.

From the President

Wally Hilke



Our nation's capitol

If you could send every Minnesota high school senior to one Washington D.C. location to learn the importance of our freedoms, which would it be? A few weeks ago I found my own unexpected answer when my wife Deborah and I spent a long Valentine's Day weekend in Washington. We waded through Minnesota-like snow, visited the temples of representative democracy, and had a memorable dinner with our nephew, who is graduating with high honors from Annapolis and, to our family's considerable trepidation, moving on to hazardous duty.

I am not exaggerating when I say that my civic pride increased with each of our activities. We enjoyed the new Capitol interpretative center and had the site interpretation of our lives with tour guide Joe Blair. We visited the U.S. Supreme Court and, following tradition, rubbed the brass foot of the great Chief Justice John Marshall for good luck in our upcoming legal arguments. We toured the White House, thrilled that the color barrier to the Presidency had been broken during our lifetimes.

For the first time in my many visits to Washington, I visited the National Archives and saw the documentary soul of our country: the Declaration of Independence, the Constitution, and the Bill of Rights. I was misty-eyed viewing the best of who are, preserved on velum.

Still, my most moving civic experience came on Valentine's Day, when Deborah and I spent three and a half hours meandering through the permanent collection at the United States Holocaust Memorial Museum. Those of you who have visited the museum know that each display is more arresting than the last. Two particular images will remain with me for a long time.

The first was a rolling video screen showing many dozens of the more than 400 laws and decrees that German authorities passed between 1933 and 1939, systematically eroding the rights of Jewish citizens. Nazi laws rescinded everything from the right to vote, to the right to marry non-Jews, to the right to work in one's chosen profession, to the right to sit in a public park.

The second indelible image was a concentration camp poster which charted the ID patches worn by various categories of prisoners. There were too many groups for guards to simply commit to memory. Each group persecuted by the Nazis had its own specific patch: Jews, Slavs, the mentally and physically disabled, the Roma (Gypsies), Jehovah's Witnesses, Poles, Homosexuals, political dissidents, Communists, and on and on and on.

The Holocaust Museum struck me as the memorial counterpoint of Washington D.C. It stands not for what we value but for the consequences of failing to defend those values.

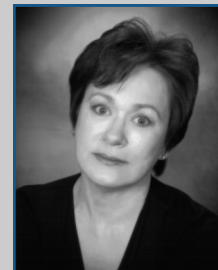
If I could, I would send our high school seniors to the Holocaust Museum for an advanced lesson in the importance of civil liberties. For it is impossible to even begin to grasp the Holocaust without understanding the importance of protecting the rights and freedoms of every human being.

Staff

| | |
|--|-------------------|
| Executive Director..... | Charles Samuelson |
| Legal Counsel..... | Teresa Nelson |
| Development Director..... | Doris Rubenstein |
| Public Education Coordinator..... | Jana Kooren |
| GMRJP Coordinator..... | Audrey Thayer |
| Lobbying Consultant..... | Carolyn Jackson |
| Assistant to the Executive Director..... | Molly Miller |
| GMRJP Office Manager..... | Gina Walters |

From the ACLU

Rebecca Rand
Minnesota's National Delegate



National Board Meeting

The ACLU National Board met January 23-24 in New York, in meeting space provided by Fried, Frank, Harris, Shriver, & Jacobson law firm. We are most grateful to them as this reduces our meeting cost substantially.

At the meeting, we voted to renew the contract of Executive Director Anthony Romero and approved a committee recommendation to deduct the cost of raising base renewable income before sharing, this cost to be determined by National and the Steering Committee of the Executive Directors Council. In addition, the Guaranteed Minimum Income will increase from \$185,000 to \$250,000, effective April 1, 2010. A matching gift program will be initiated for affiliates with 1 percent to 1.25 percent of nation-wide membership, also effective April 1, 2010. (ACLU-MN is not a guaranteed minimum income affiliate.) We are somewhere around 10th-13th in size, depending upon the metrics used to calculate. The increase in funding is very important to these small affiliates. They are mostly in seriously civil rights deprived states, such as Louisiana, Mississippi, South Carolina, etc. The Affiliate Support Department of National helps them to organize, fund raise, and develop programming to meet the needs of their area.

Committee appointments were made by President Herman and Joseph Sweat who elected: Milton Estes, Robert Chester, Audra Herron, and Claudia Angelos were elected to the Executive Committee.

The Campaign Finance Committee's recommendation to modify ACLU Policy#35 was met with determined resistance. Current policy is opposed to any limits on donations as a violation of free speech principles. The Board seems split on this issue, with little likelihood of movement in either direction. Eloquent arguments were made in defense of the current policy, which aligns with the Supreme Court decision in Citizens United, and equally passionate arguments for amending the policy to allow laws regulating the flow of money to campaigns and "issue advocacy" around elections. This is shaping up to be as contentious and disruptive as Skokie.

The treasurer's report was dismal, but Executive Director Romero and his staff have worked hard to cut expenses, by eliminating, consolidating, and downsizing, as well as raise new money to partially replace the loss of a \$20 million yearly donation.

If you can, double down on your donation this year to the ACLU-MN, and remember to effectively (i.e., politely), represent the cause and help bring in new members.

Board of Directors

| | | | |
|---------------------------------|------------------|-----------------------------|-------------------|
| President..... | Wally Hilke | Vice President..... | Vance Opperman |
| Treasurer..... | Cassandra Warner | Secretary..... | Charles Silverman |
| Affirmative Action Officer..... | Raleigh Levine | ACLU National Delegate..... | Rebecca Rand |

Howard Bass, Melanie Benjamin, Joel Bergstrom, Tim Branson, Ron DeHarpporte, Nate Dybvig, Sandra Feist, Anita Fineday, Burt Garr, John Gulla, Samuel Heins, Tom Kayser, Carolina Lamas, Jonathan Lebedoff, Therese Marso, Jennifer Martin, Vivian Mason, Scot Milchman, Todd Noteboom, Bill Pentelovitch, TJ Pierret, Susan Harper Ritten, Leslie Sandberg, Robert Sykora

Legislative update

contributed by Carolyn Jackson

This session's primary focus has been civil asset forfeiture. Administrative forfeiture allows police to take and keep property on the mere suspicion of a drug crime. Abuse of this power led to the Metro Gang Strike Force scandal, where officers took property, including cars, cash, jewelry and televisions, not as evidence of a crime, but rather for funding their operations.

Administrative forfeiture violates the Bill of Rights on many counts. The Fourth Amendment protects you against unreasonable searches and seizures. The Fifth Amendment guarantees you due process before the government can take your property. The Sixth Amendment guarantees that you get to know your accuser and face witnesses against you. The Seventh Amendment gives you the right to a jury trial. The Eighth Amendment ensures all punishment is proportional to the crime. The presumption of innocence means the state cannot punish you for a crime unless it can prove its case beyond a reasonable doubt.

But you must get before a judge to exercise these rights. With administrative forfeiture, the police officer on the street makes the decision of guilt and punishment, and it is up to you, the property owner, to sue the police to get your property back. Reports show police earn about \$5,000,000 a year using forfeiture. That is the price for your civil liberties.

It is critical that you contact your legislators because there is movement in the state legislature to eliminate administrative forfeiture and require a conviction before punishment. However, the current bill (HF2610/SF2634) that is on the House and Senate floor does not make all the changes that are needed to fully protect your rights. Contact your legislators to let them know that they should amend and support a bill reforming the power of forfeiture to require a conviction and separate police from forfeiture proceeds. Logon to our website and go to the *Take Action* tab to send an email to your legislators today. www.aclu-mn.org

GRMJP update

contributed by Audrey Thayer

As the maple sap begins to flow this spring, the Greater Minnesota Racial Justice Project is gearing up for continued growth and transition. Within the community, GMRJP will continue to outreach in the following ways:

- Uphold the project's goal of education by expanding educational opportunities on the U.S. constitution, and continuing to distribute copies of the Constitution to all.
- Encourage discussions and educate the community around the racial justice issues facing our communities of color in Northern Minnesota

Of particular focus this spring will be discussing the struggle and discrimination that our young native people face. The school-to-prison pipeline is alive and active in Northern Minnesota, and our whole community should be concerned about the large numbers of young men and women who are being locked up, starting at a young age. One way we are working to change this is by educating people on their own perceptions of natives. Often times what a teacher or administrator perceives as threatening may only be the young person expressing themselves through dress or language in a way that the administrator does not recognize and is therefore demonized.

A project that GMRJP is excited to announce is *Art from Within*. This will be art exhibit showcasing work from individuals that are or have been involved in the criminal justice system in Northern Minnesota, with a special emphasis on Native American artists.

An opening reception will be Thursday evening April 1, (5:30 -8:00 p.m.), and the art will remain on display thru the month of April. The show will be located at 325 Minnesota Ave, Bemidji.

As always the GMRJP would like to thank the community for its continued support.

Miigwech (Thank you)

Annual Meeting

The American Civil Liberties Union of Minnesota will hold its 2010 Annual Meeting of the members on Saturday, April 24, 2010 at 10:00 a.m. The meeting will be held at the Hamline University Law and Graduate School Conference Center, Room 106, 1536 Hewitt Avenue, Saint Paul, Minnesota for the purposes of electing directors and any other appropriate business.

♦ WHO MAY VOTE

All current members of the ACLU who reside in Minnesota may vote. Organizational members are not eligible to vote. Each member may vote once only.

♦ INFORMATION

For questions regarding the Annual Meeting of the Members, contact Molly at mmiller@aclu-mn.org or 651.645.4097 x127.

BYLAW INFORMATION

NOMINATION PROCEDURES

Current voting members have the right to nominate directors by mailing such nominations to the President. Nominations must be accompanied by:

- a petition signed by at least twenty-five (25) voting members for each individual nominated;
- a statement by the nominee that she/he is willing to serve as a director; and
- an accurate, written biographical statement of the nominee no more than eight (8) typed lines of no more than sixty (60) characters per line.

COMMUNICATING WITH THE MEMBERSHIP

An ACLU-MN member may, at his or her own expense, have a designated commercial mailing house mail information to all or some of the Voting Members. Communications to the membership must be conducted by a blind mailing. There will be no censorship of the mailing piece either by the board or staff of the ACLU-MN

AMENDMENTS TO THE BYLAWS

Both the Board of Directors and the Voting Members shall have the power to amend these Bylaws as follows:

Amendment by the Board. The power of the Board of Directors shall be subject to the power of the members with voting rights under Section 8.1.4 to adopt, amend or repeal Bylaws adopted, amended or repealed by the Board. The Board of Directors may amend the Bylaws by adopting a resolution setting forth the amendment by the affirmative vote of a majority of the members of the entire Board of Directors then in office. The Board of Directors may not adopt, amend, or repeal a bylaw fixing a quorum for meetings of members, prescribing procedures for removing directors or filling vacancies in the Board of Directors, or fixing the number of directors or their classifications, qualifications, or terms of office.

Proposal by the Board. The Board of Directors may also propose an amendment to the Bylaws by adopting a resolution setting forth the proposed amendment and directing that it be submitted for adoption at a meeting of the members.

Proposal by Minority of the Board. An amendment to the Bylaws may also be proposed upon the (a) written resolution signed by any five (5) members of the Board or (b) written resolution signed by any two (2) members of the Board accompanied by the written endorsement of one hundred (100) Voting Members, and delivered to the Secretary.

Voting Member Proposal. An amendment to the Bylaws may also be proposed by written resolution by a Voting Member accompanied by the written endorsement of at least 150 Voting Members and delivered to the Secretary.

Proposed Bylaw change...

This bylaw change was proposed by the ACLU-MN Board of Directors and must be ratified by the members per the bylaws.

SECTION 3.1 Number and Method of Election; Qualification. The Board of Directors of this corporation shall consist of no fewer than **twenty (20)** and no more than thirty-three (33) persons, and subject to such limitation, the number of members of the Board of Directors shall be such as may be designated from time to time by the Board of Directors. The incumbent Board of Directors at the time these Amended and Restated Bylaws are adopted shall consist of the persons designated in Exhibit A hereto and the directors listed therein shall serve until the times indicated therein. Thereafter, directors of this corporation shall be elected by the Voting Members at each annual meeting. All of the directors must be Voting Members.

Resolution

This resolution was proposed by member John Willand and will be voted on during the Annual Board Member.

A civil libertarian blind spot. Violating rights of the child, forced male neonatal circumcision permanently removes about a 3"x 5" area of adult penile skin, with about 70% of sensitive nerve endings. Medical organizations recognize that circumcision is rarely therapeutic, but defer to parents and thereby violate their Hippocratic oath.

WHEREAS: Neo-natal male circumcision is the most common surgical procedure performed in Minnesota; and,

WHEREAS: The benefits of neo-natal male circumcision are dubious; and,

WHEREAS: State and national medical organizations recognize that neonatal circumcision is rarely therapeutic; and,

WHEREAS: The effects of neo-natal circumcision pose a lifelong impediment to natural functions; and,

WHEREAS: The procedure is often done without anesthetic and carries the risks of infection and post traumatic trauma; and,

WHEREAS: Parents cannot give consent to a crime of mutilation of a minor; and,

WHEREAS: Neo-natal circumcision constitutes generationally perpetuated child abuse; and,

WHEREAS: The procedure is aided and abetted by medical personnel who profit from the procedure in conflict of interest with the prime directive of the traditional Hippocratic oath to first, do no harm; and,

WHEREAS: Few adult males seek circumcision; and,

WHEREAS: Males have a right to make personal decisions on bodily integrity; and,

WHEREAS: Female circumcision is a felony under Minnesota Statutes 609.2245, without the defense of consent of a minor or consent of the minor's parents; and,

WHEREAS: Males are constitutionally entitled to equal protection of the laws:

THEREFORE BE IT RESOLVED THAT: The ACLU of Minnesota supports incorporation of prohibited genital mutilation of minor males into Minnesota Statutes, 609.2245, prohibiting female genital mutilation, subject to similar exceptions therein, and to religious exceptions.

New Board Members

Sandra Feist - Associate Attorney at Aronson & Associates which specializes in immigration law. Sandra is an immigration law specialist with over 9 years of experience in the field, first as a Case Manager and more recently as an Attorney. She received her J.D. from William Mitchell School of Law. As a law student she co-founded the William Mitchell chapter of the ACLU.

Ronald DeHarpporte - A long time member of the ACLU-MN who has previously served on the Board of Directors. He bought a small manufacturer's representative firm in the consumer electronics industry in 1975, and it grew to be one of the largest rep companies in the state. He currently sits on the Foundation Board of Directors.

Samuel Heins - An equity member and governor of the firm Heins, Mills & Olson PLC. He was the founder of the Minnesota Advocates for Human Rights 26 years ago and served as the first Chair and, for a number of years, on its Board of Directors. He was also co-founder and first Chair of the Board of the Center for Victims of Torture.

Thomas Kayser - Partner at the law firm of Robins, Kaplan, Miller & Ciresi. His practice focuses on complex employment, antitrust, corporate, constitutional and negligence litigation. He has donated hundreds of pro bono hours to numerous nonprofit legal aid and advocacy groups, including the ACLU-MN. He was a lead attorney for landmark ACLU-MN case SAGE (Straights and Gays for Equality) vs. Osseo School District which established rights of non-traditional extra-curricular clubs and associations.

Carolina Lamas - Executive Director at Neighborhood Justice Center which provides legal representation on criminal cases to low-income persons with a focus on persons of color. She previously was an attorney at Ramsey County Office of the Public Defender. She received her J.D. from the University of Minnesota Law School and a B.A. from the University of Minnesota.

William Pentelovitch - A trial lawyer at Maslon Edelman Borman & Brand, LLP who has practiced exclusively in the area of business-related disputes for more than 35 years. He was part of the "Pinstripe Brigade" which was a contingent of attorneys who donated thousands of hours over the months leading up to and after the Republican National Convention in St. Paul.

Board Members up for re-election

Nate Dybvig - Founded Minnesota Media Service Inc. in 2005, following four years as a partner in the venerable firm Media Service Inc. Cutting his teeth in the newsrooms of rural northern Minnesota, Dybvig was the recipient of several prestigious journals awards, including the Associated Press "Freedom Information" Award. Dybvig has been assisting the ACLU of Minnesota with its communications and press outreach for a number of years.

John Gulla - Head of School at The Blake School in Minneapolis. Prior to his current position, he served in similar capacities in New York and New Orleans. John received his MA from Teachers College, Columbia University in New York and his BA from Amherst College. His secondary education was completed at Walpole High School in Walpole, Massachusetts. He currently serves on the Boards of the Fund for Teachers where he is Chair, the Independent Schools Association of the Central States. He is married with two sons.

Leslie Sandberg: President of Sandberg Communications which is a strategic communications firm offering public affairs, public relations, crisis management and community relations to a wide variety of clients. From 1997 to 2007 she served as the Press Secretary for the Minnesota Attorney General's Office. She has worked for NBC News and Fox News before coming to Minnesota. She is currently the chair of the Public Education Committee.

Charles Silverman: Co-owner of Johnson Printing & Packaging Corporation in Fridley, Minnesota. Chuck is a longtime member and supporter of the ACLU-MN. He currently serves as the Board secretary

Robert Sykora: An attorney who has a special interest in data policy issues, the criminal justice system, human rights concerns affecting gay and lesbian people, and in development of mediation as an alternative to traditional forms of dispute resolution. Bob currently serves as the Chief Information Officer for the State of Minnesota Board of Public Defense. In the early 1990s, he pioneered the use of mediation to resolve civil rights disputes before the Minneapolis Civil Rights Commission. He is the founder and was the Executive Director of Lambda Justice Center.

Legal cont'd

continued from page 1
investigator or jury. Then, after having gone through all that, to be charged with falsely reporting police misconduct could scare away a lot of victims.

The ACLU-MN filed the brief in the case of State v Crawley in the Minnesota Court of Appeals in March. The volunteer attorneys who wrote the brief are Mary Vasaly, Abigail Richey-Allen and Sarah Riskin of Maslon Edelman Borman & Brand, LLP.

Supreme Court reaffirms jury trial rights

The ACLU-MN helped to reaffirm a criminal defendant's right to waive a jury trial. The ACLU-MN had filed an *amicus curiae* brief in State of Minnesota v Lessley arguing that the Minnesota Constitution does not require the consent of the State before a defendant in a criminal case may waive a jury trial. We argued that the right of a jury trial is the right of the defendant to exercise or waive, not the State.

The Minnesota Supreme Court agreed with the ACLU-MN position, and affirmed the defendant's right to waive a jury trial.

Volunteer Attorneys in the case were John Lundquist and Sten-Erik Hoidal of Fredrickson & Byron.

TiZA update

The ACLU-MN's case against the TiZA charter school continues despite the charter's school repeated attempts to have it dismissed. To read the most current updates on the case please visit our website. www.aclu-mn.org

Civil Liberties News

450 N. Syndicate Street
Suite 325
St. Paul, MN 55104

ACLU-MN Foundation Contribution Form

Mail completed form and your tax-deductible contribution to:
ACLU-MN Foundation ■ 450 N. Syndicate Street ■ Suite 325 ■ St. Paul, MN 55104

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).