



## Students have privacy and free speech rights too!

Riley Stratton can finally move forward with her life and put the humiliating experience with her school behind her. Two years ago the ACLU-MN sued the Minnewaska School District for violating her rights when they unjustly punished her for content she posted on her Facebook page and forced her to turn over her passwords for her Facebook and email accounts. The case was recently settled and as a part of the agreement the School District agreed to strengthen privacy protections for its students and pay damages.

In one humiliating ordeal after another, Stratton was subject to a baseless punishment for a comment she made on her own Facebook page, while at home, about

a staff member from the school. A short while later she was put through a traumatizing experience when she had her

Facebook page searched by school officials with police present. The reason for the search was that, while at home, she allegedly had an online conversation about sex with a boy. The whole experience left Stratton distressed to the point where she no longer wanted to attend school.

As part of the settlement the School District agreed to  
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## Free speech prevails



*"I feel incredibly relieved and excited that I was acquitted of all charges. This is an important victory not only for me, but for other individuals like me who think recording interactions with the police are an important part of our First Amendment rights."*  
- Andrew Henderson

In February, a Ramsey County jury sent a clear message to police and prosecutors that filming in public is not a crime. ACLU-MN client, Andrew Henderson, was found not guilty by a Ramsey County jury after he was issued a citation for obstruction of justice and disorderly conduct. Andrew was cited in fall 2012 for passively filming paramedics and sheriff's

deputies in the parking lot of his apartment building. The ACLU-MN successfully represented him in his criminal case, arguing, amongst other things, that the First Amendment protected his right to film.

Andrew was outside his building when he noticed an incident occurring involving a man from his building, law enforcement officials, and the paramedics. He began passively filming the incident. Shortly thereafter the paramedics complained to a deputy who then approached Henderson and asked him to stop filming. When he refused, his camera was confiscated, and he was cited for disorderly conduct and obstruction of justice.

The ACLU-MN believes strongly in the right of individuals to photograph and film in public spaces. This decision reaffirms that right and hopefully leads to fewer arrests and prosecutions across the state.

ACLU-MN cooperating attorneys are John Lundquist and Kevin Riach of Fredrikson & Byron, P.A. ■



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## Isn't it ironic

The ACLU of Minnesota has grown over the past fifteen years from basically a two-person shop to a staffed organization that confronts the violation of civil liberties on many fronts and levels. A quick study of the Issues page on the website will reveal at least a dozen categories that the organization does some amount of work on or can get involved with at any given time. The work in any one area can of course ebb and flow depending on social movements, legislation, court decisions, and of course, funding.

This past year as we worked to assure the rights of many Minnesotans, we found it financially necessary to end our highly successful, nine-year program in rural Minnesota to protect the rights and liberties of the first Minnesotans, Native Americans. While many positive changes happened over the life of the Bemidji-based program, there was much yet to be done. The irony of Indian people not getting equal justice in their homeland is not lost on me as an Indian person.

But the epitome of irony is the treatment of some of Minnesotas newest immigrants by the descendants of European immigrants! After careful research and deliberation, the ACLU-MN founded an office in Mankato two years ago to address the ongoing violations of the civil rights of Hispanic and Latino immigrants in the southern part of the state; many of the violations being especially egregious and racially motivated. The ACLU-MN is incredibly unique in their decisions to tackle issues facing immigrants in rural areas in a state that is not known for a large Latino population. During our

two years we have seen a number of our allied non-profits close their doors leaving the ACLU-MN as one of the only organizations dedicated to racial justice in southern Minnesota. Despite all of this we have made incredible headway. For the first time ever, one of the most notoriously biased police departments hired a Hispanic police chief. We cannot help but claim some responsibility because we have been relentlessly dogging the Gaylord police department for their racist behaviors. We filed a major racial discrimination lawsuit against the Gaylord police department and continue to watch for more legal actions across southern Minnesota. We have built extensive networks and relationships with the Latino community and the broader community in this area. We have built successful partnerships with Mankato State University and Gustavus Adolphus College, both of which have worked with our office on research projects. We should be incredibly proud of everything we have accomplished in the two short years we have been open. We hope that through your continued support and generosity we can continue this important work.

In Indian Country we often say, "What happens to one person, happens to the tribe." The parallel in this country would be to say, "What happens to one person in this democracy can happen to anyone." The final irony of the situation is the fact that the civil rights and liberties of European descendants is truly dependent on the protection of those rights and liberties of the nation's first residents and their newest residents. ■



**Charles Samuelson**  
Executive Director

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## Why we fight

The ACLU of Minnesota is our ACLU. It is often in the news, sometimes because we have sued someone, sometimes because we have opposed or proposed a piece of legislation, or sometimes because we have commented on some government activity or another. But we are always in the fray.

Why do we fight? We fight because we are dedicated to the rights of the individuals. Our Constitution was created to not only build a unified country (a process not completed until the Civil War) but also to protect individuals from the unjust power of that government. We are composed of individuals who join together, in this constant struggle to protect and expand individual rights.

We sue schools over aggressive school discipline for the off-campus free speech of students. We defend citizens against aggressive law enforcement actions in free speech issues. We sue the federal government for selectively targeting free speech they dislike. In every case we are defending the First Amendment.

We sue cities for racially biased policing. We lobby to pass bills requiring search warrants before the government can track your cell phone or follow you with a drone.

Our real clients are the Fourteenth and Fourth Amendment.

We have prepared and we teach supplemental curriculum designed to familiarize students with the U.S. Constitution and the rights contained inside it.

We fight because we believe in the promise of the United States. For more than 200 years, we citizens have managed to run a country that, with all its problems, continues to be a dynamic and exciting model of how a fair and just government might function. We lurch from crisis to crisis and we have sometimes failed in our promise, but then citizens step up, raise issues, and start discussions that put us back on track.

We believe in the systems of the United States. We believe that a vigorous debate is the American way. And we believe that a nationwide organization, supported only through private donations, and run by boards of committed members, is the proper vehicle with which to monitor the work of our government.

Thank you for being a member with us. Thank you for donating to us. And thank you for making all that we do possible. ■

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# Let's stop policing for profit

Policing for profit should not be the practice in Minnesota. The ACLU-MN filed a brief in the case of *Garcia-Mendoza v. 2003 Chevy Tahoe*. In this case, an individual's vehicle and money were seized after police made an illegal stop and found drugs in the vehicle. The ACLU-MN believes if the original stop was illegal, law enforcement should no longer be able to seize the property. This case is currently before the Minnesota Supreme Court.

In Minnesota, civil forfeiture laws are ripe for abuse because they give law enforcement too much discretion. The police department gets to keep half of all the money and property they seize and the prosecutors receive the other half. In 2005 – 2009, the Metro Gang Strike Force abused civil asset forfeiture laws in Minnesota by seizing millions of dollars worth of cash and property. The seized property was used to not only fund police activity but was also found in the personal homes of a number of the officers involved in the Strike Force. When law enforcement receives a direct benefit from the dollar value of what they seize this can easily lead to abuse if not carefully monitored through judicial oversight.

The ACLU-MN believes that the Minnesota Court of Appeals came to the wrong conclusion when they stated in the *Garcia-Mendoza* case that the exclusionary rule does not apply in civil forfeiture cases. This means that even if the initial stop was illegal, the vehicle could still be seized. In this case, the District Court found that the initial stop of Daniel Garcia-Mendoza was illegal because law enforcement had no cause to pull him over in the first place. Mendoza was issued a ticket for driving without a license and, after his vehicle was impounded, drugs were found in the vehicle. The Court of Appeals

reasoned that because the forfeiture was a civil proceeding, not criminal, the forfeiture was acceptable and that the exclusionary rule did not apply.

The ACLU-MN believes that the exclusionary rule should apply in civil forfeiture cases. In criminal cases evidence would not be admitted if it was obtained in an illegal search. The constitution protects us from the police taking our property without a legal process. By arguing that police can seize property found during an illegal stop, the police are trying to create a loophole where there shouldn't be one.

In their brief the ACLU-MN argues that because the



Chevy Tahoe and money were seized as a result of an illegal stop the property should be returned to the owner and that the Minnesota Supreme Court should definitively say that the exclusionary rule applies in civil forfeiture cases.

Apart from this case, the ACLU-MN is also working diligently at the State Capitol

to pass legislative reform. The ACLU-MN believes that before police can seize property they should first get a conviction. Current practice allows police to seize millions of dollars worth of cash and property immediately. Sometimes they later get a conviction, and sometimes they don't. Either way they keep the property and it is up to the owner to try and get it back. Imagine your son driving your vehicle and his friend has drugs on him, they are pulled over, searched and the drugs are found. Your vehicle is seized by the police, and you as the innocent owner have to sue to get your property back! This can happen in Minnesota, which is why we desperately need reform.

Cooperating attorneys working on the case are: Peter Routhier and Bruce Jones of Faegre Baker Daniels LLP and Teresa Nelson of the ACLU-MN. ■

## Facebook case

*continued from page 1*

change its policies to better protect students' privacy and train its staff on the new policy to ensure it is correctly followed. The School District also agreed to a \$70,000 settlement which will be divided between the Strattons for damages and the ACLU-MN to cover case costs and support future ACLU-MN efforts to protect the civil liberties of Minnesotans.

The ACLU-MN is hopeful that this will send a clear message to schools that, just because they have the ability to monitor students online, it does not mean they have the authority or the right to do so.

Cooperating attorneys working on the case are: Wallace Hilke and Bryan Freeman of Lindquist & Vennum PLLP and Professor Raleigh Hannah Levine, William Mitchell College of Law along with Teresa Nelson, Legal Director of the ACLU-MN. ■



*"I am so happy that this is finally over and that my school changed its rules so what happened to me doesn't happen to other students. It was so embarrassing and hard on me to go through, but I hope that schools all over see what happened and don't punish other students the way I was punished."*  
-Riley Stratton

## Rock-n-Roll and the ACLU

*A profile of donor Jeff Holland*



Rock-n-roll brought Jeff Holland to the ACLU. He bought a t-shirt and joined as an ACLU student member at a concert while in college in Massachusetts. The t-shirt said, "You have the right not to remain silent." That initial interaction sparked what is now a two decades long relationship of support and philanthropy.

To Jeff, being an ACLU member means that you are a part of something bigger, something that you should actively take part in, so he began volunteering as well. In 2008 Jeff volunteered with the ACLU-MN handing out know your rights cards to protestors during the Republican National Convention and continued his involvement during the 2012 election calling voters. He currently serves as a non-board representative on the ACLU-MN's finance committee.

Jeff is drawn to the ACLU because we are a principled organization that works on a broad range of issues while remaining non-partisan. He likes that the ACLU actually gets stuff done and has a positive impact on many people's lives. For Jeff, donating his time and money is simple; he does it because, *"It's the right thing to do."* When asked why he supports the ACLU, he responds almost incredulously, *"Who doesn't believe in protecting all of our constitutional rights!"*

His giving philosophy is to donate larger amounts to a small group of non-profits he strongly believes in. He plans on donating to the ACLU as long as he is around and will continue to be connected in whatever way possible.

A special thank you to Jeff and his wife Robin for their many years of support! ■

# Annual Meeting - Saturday, April 26

The American Civil Liberties Union of Minnesota will hold its 2014 Annual Meeting of the Members on Saturday, April 26, 2014 at 10:00 a.m. The meeting will be held at William Mitchell College of Law in the Kelley Board Room, 875 Summit Ave, St. Paul, Minnesota, for the purposes of electing directors and any other appropriate business. All members in good standing are welcome to attend. For more information contact Sarah at [sheil@aclu-mn.org](mailto:sheil@aclu-mn.org), 651.645.4097 x129.

## 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 on 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.



## Board members up for re-election

**Al Goins** is a civil rights and criminal defense attorney with the law firm of Goins Law Offices. He has represented the ACLU-MN as a volunteer attorney in a number of important cases. Al has served on the board most recently since 2011.

**Samuel Heins** is of counsel to the firm Heins, Mills and Olson, P.L.C. Sam has extensive experience in complex litigation, particularly in securities fraud and antitrust class actions, and has served as lead or co-lead counsel in a number of major class actions. He has also served on the boards of Advocates for Human Rights and Center for Victims of Torture. Sam has served on the ACLU-MN board since 2011.

**Nicole Moen** is an attorney at Fredrickson & Byron PA, a Minneapolis law firm, specializing in health litigation, white collar and regulatory defense, and business and commercial litigation. She received the Hennepin County Bar Association's 2010 Pro Bono Publico Award for an Attorney in the Private Sector. Nicole has served on the board since 2011.

**Rebecca Rand** has long been an advocate of expanded First Amendment rights and a longtime supporter of the ACLU of Minnesota. She previously served as delegate to the National Board and has served on the board most recently since 2011.

## New board member nominees

**Jonathan Abram** is a partner in the Corporate practice group at Dorsey & Whitney LLP. He represents public and private companies, investment banks and venture capital firms in the areas of SEC-registered offerings and private placements, venture capital financing, mergers and acquisitions, corporate governance and SEC reporting and compliance.

**Jean Holloway** is the dean of Hamline Law school. A longtime corporate attorney, she is the first female dean of the law school. Holloway is a past president of Minnesota Women Lawyers and the Hennepin County Bar Association.

**Gary Kohler** is the founding principal, portfolio manager and chief investment officer for Blue Clay Capital Management, LLC. Gary serves on the Board of Directors of the Jewish Family and Children's Service of Minneapolis and Board of the Minneapolis Jewish Community Foundation.

**Thank you to the following board members for their years of service:**  
**Melanie Benjamin**  
**Scot Milchman**  
**Vance Opperman**



In late March, the US Supreme Court heard arguments about whether the Affordable Care Act's contraception mandate was unconstitutional. If the Supreme Court allows private corporations to impose their religious beliefs on their employees, this could open the door to all types of discrimination. While the ACLU will always support the freedom of religion, it should not be used as a justification for discrimination. A decision in the case is expected in June.

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## ACLU-MN Foundation Contribution Form

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The American Civil Liberties Union of Minnesota 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).