

# CIVIL LIBERTIES NEWS



## I NEED RELIEF FROM THE PAIN OF LIVING IN A FEMALE BODY



ACLU client Evan Thomas

*contributed by ACLU client Evan Thomas*

All my life, I've known I was different.

My mother really wanted a girl, and as far as she knew, she got one when I came along. Except she didn't. By the time I was five, I knew I wasn't a girl. It drove

her crazy that she couldn't get me to wear anything but pants, that I only wanted to play with "boys' toys," that I had the gall to insist that a doll given to me by my grandmother was a boy. But that was in the mid-1950s, and the concept of "transgender" wasn't even on the radar.

I'm 63 now. I've spent the years in between trying to survive, working hard to make life bearable as a gender-nonconforming woman, and it hasn't been enough. I've fought depression all my life, and a few years ago I collapsed from the misery of it, and so did the woodworking business that took me 20 years to start and build. I was lucky, though. I had support  
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## A BIPARTISAN CAMPAIGN TO TAKE CONTROL OF OUR DIGITAL PRIVACY COMES TO MINNESOTA

There may be a prevailing sentiment in this country that we are so politically divided that we cannot work together even on issues of great importance to the American public. But that narrative does not hold up when it comes to privacy. In fact, a recent poll found that 90 percent of Americans want the next president of the United States to prioritize "protecting privacy so [Americans] have more control over our personal information."

Nearly all of us have chosen to share certain personal thoughts and information about ourselves with a select group of other people through one digital medium or another. While using an online platform, we all want control over what personal information is shared and with whom. Unfortunately, our laws have not caught up to technology, which leaves much of our personal data that is online vulnerable.

Every person should have the right to decide with whom they want to share personal, private information. Privacy is not about keeping secrets, it is about maintaining control over our own lives.

In January, before the legislative session even officially began, six bills that protect our digital privacy were introduced with bipartisan support in Minnesota, as part of a nationwide effort to #TakeCTRL of our privacy.

At the same time the Minnesota bills were introduced; 16 other states plus the District of Columbia introduced similar bills.

The Minnesota legislators that took the lead on introducing the bills include:  
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**Bill Pentelovitch**  
President

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## ANGER AND HOPE

I am nine months into the first year of my two-year term as your ACLU-MN board president.

It has become apparent during the seemingly endless months of the 2016 presidential election campaign that a significant portion of the American people are angry. Voters on the right are angry. Voters on the left are angry. They're not necessarily angry about the same things, but a few themes have emerged: Some people are angry at people who don't share the same religious faith as they do. Other people are angry at people whose skin color is different from theirs. Still others are angry at people who weren't born in the United States. Others are angry at people who wear a badge. Some are angry at "Wall Street" and "Big Business." And everyone seems to be angry at Congress.

It seems that there are as many different solutions being offered as there are causes of this anger. Many of those solutions would stifle, curtail or restrict the precious civil liberties that we are all guaranteed by the United States and Minnesota Constitutions. It is apparent that there are a fair number of people out there who may not care if constitutional rights get trampled in their single-minded quest to address the cause of their particular brand of anger.

It is our mission at the ACLU here in Minnesota, along with every other ACLU, to make sure that no matter who gets elected, no matter what party is in power, and no matter what actions government takes in response to the political

flavor of the moment, that our civil liberties and constitutional rights are not trampled upon or pared back. I am proud to be part of that mission, and my fellow board members and I, along with the great ACLU of Minnesota staff, have been engaging in a strategic planning exercise since last summer in order to be best prepared to meet whatever civil liberties challenges come our way.

But I have to admit to being a bit scared. Why? Quite simply because there is already so much work for the ACLU of Minnesota to do, and so much more important work that will need to be done, but we simply don't have adequate resources to do it all. We need more members. We need more money. Did I mention that we need more money? In case I didn't, we need more money.

How can you help? Let me count the ways! If you're reading this you're probably already a member of the ACLU-MN. So tell a friend about us and invite your friend to become a member. Or give someone a gift membership. If you are fortunate enough to be able to give more, please do; and if you can give a whole wheelbarrow-full more, our cheerful Development Director Carol Stoddart would be happy to talk to you about ways in which you can do so that would have the most impact.

Looking forward to you jumping in and helping protect our constitutional rights. As always, our freedom depends upon it. ■



**Charles Samuelson**  
Executive Director

ACLU-MN Staff

Charles Samuelson  
*Executive Director*

Teresa Nelson  
*Legal Director*

Carol Stoddart  
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Ian Bratlie  
*GMRJP Staff Attorney*

Julio Zelaya  
*GMRJP Coordinator*

## THE CONSEQUENCES OF SPEECH

“Congress shall make no law”... is how the First Amendment begins. Contained in the First Amendment are religious freedom, free speech, freedom of the press, freedom of assembly and the right to sue the government. Because the Bill of Rights is so popular and so frequently quoted, many take it to mean that there are no consequences for speech.

They are mistaken.

First, only the government is restrained by the First Amendment. The First Amendment does not apply to your boss, your neighbor or your family. The result of your speech could then be that you could lose your job, your neighbor’s respect or you could have problems with your relatives. You could also not get elected.

Secondly, no right is absolute. Remember, yelling fire in a crowded theater? That can send you to jail. That happens because your rights end when another’s rights are damaged. No rights are unlimited, and the government, reviewed by the courts, may pass reasonable time, place and manner restrictions on speech. The burden, however,

is on the government; not on the speaker.

Another thought that people have is that speech cannot be insulting or hurtful.

Again they are mistaken.

Mr. Trump, a private citizen, is running for the Republican presidential nomination. He has condemned a host of people: Mexicans, Muslims, the leading candidates for the Democratic nomination and all of his Republican competitors. His language has been harsh, mean and sometimes in conflict with known facts. But it has also been legal. Only the voters can deliver consequences to bad manners, and we won’t know which way they will go until the election happens some months from now.

But speech, assembly, press and almost all other rights also carry consequences when they are exercised. The constitution only protects you from governmental consequences. And even that is limited. Non-governmental consequences can be broad and harsh – and frequently legal. ■

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# ACLU & NAACP SUE TO RELEASE FOOTAGE OF POLICE SHOOTING

*This piece was contributed by Nekima Levy-Pounds, President of the Minneapolis NAACP & ACLU client*

Every time I see a picture of Jamar Clark's face, I get emotional. I am reminded of the fact that Jamar Clark was a son, a brother, a friend, and a member of our community. Were it not for our acceptance of a horrid culture of police violence, he might still be alive today.

Jamar Clark was 24 years old when he was shot in the head in the middle of the night by a Minneapolis police officer. His death left a multitude of grief, pain, suffering and unanswered questions.

While it is true that no matter how hard we try, we can never bring Jamar Clark back to life, his memory lives on in each of us fighting for freedom, justice, and equality and an end to police violence in our community. For 18 freezing cold days in November, hundreds of people from all walks of life and different racial, ethnic and religious backgrounds stood steadfast in occupying the 4th Precinct Police Station near the place where Jamar was killed on Plymouth Avenue in North Minneapolis.

We braved tear gas, rubber bullets, freezing cold temperatures, and vitriol, violence and hatred from white supremacists who detested our presence outside of the 4th Precinct.

In the midst of the daunting and traumatic conditions we faced during the occupation, there was a strong sense of community and solidarity, in which many brave souls came together to declare that #BlackLivesMatter and that indeed, Jamar Clark's life mattered.

Every day, ordinary citizens brought food, clothing,

hats, gloves, coats and firewood out of the kindness of their hearts and a deep need to stand up for the rights of a person whose life was cut short due to senseless police violence. Community members stood side-by-side and shoulder-to-shoulder demanding justice for Jamar Clark, an end to the culture of police violence, and that the tapes showing his killing at the hands of the Minneapolis Police Department be released to the general public.



*Nekima Levy-Pounds (center) at a demonstration*

Sadly, the occupation was forcibly evicted by law enforcement, bringing an end to the occupation, but not an end to our fight for justice. Our desire to know the truth of why and how Jamar was killed at the hands of the Minneapolis Police Department recently caused the Minneapolis

Branch of the NAACP to join the ACLU of Minnesota in filing a lawsuit demanding the release of the tapes of the Jamar Clark shooting.

It is imperative that the tapes be released to the public in order to ensure transparency and accountability when there is violence at the hands of the police department. This ground breaking lawsuit that we have filed signals an end to our acceptance of the status quo and "business as usual" in the city of Minneapolis.

We are ready to see justice prevail in the land. We are demanding accountability and transparency. We are demanding release of the videotapes that document the shooting death of Jamar Clark at the hands of Minneapolis Police. But most importantly, we are demanding an acknowledgement of the humanity of African Americans in the city of Minneapolis and beyond. Jamar Clark was just 24 years old. He was unarmed. He was African American. He was human. He deserves to have the truth come out in his case. It's simple...#releasethetapes. The truth shall set us free. #BlackLivesMatter

# TRANSGENDER MEDICAL CARE CASE

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from friends and family, and Minnesota's public healthcare program, Medical Assistance, covers mental health and non-surgical forms of transgender health care. I made it out of the depression alive, came to terms with being transgender, and began the transition to male. I started hormone therapy (testosterone) almost two years ago, and I legally changed my name and gender a few months ago. I'm now seen as the man I am. It feels great.

The testosterone has done a lot to alter my appearance, but it hasn't alleviated the pain of living in a female body. In fact, as I've become more at ease in a male identity, the incongruence I feel between self and body has increased.

For transgender people who feel this level of dysphoria, the next step is surgery to align the body with the mind. Transition-related surgery can include chest surgery, removal of reproductive organs, genital reconstruction, and other procedures. Medical Assistance excludes them from coverage, even though decades of research have shown these surgeries to be medically necessary. Nearly all of these surgeries are covered for people with other diagnoses, but they're denied for gender dysphoria. This is harmful to the mental and physical health of many transgender people, and it's also unjust: Transgender people have the same right to health care as everyone else. This is why, with the help of the American Civil Liberties Union and the ACLU of Minnesota, I'm challenging Minnesota's ban on Medical Assistance coverage of this important part of health care for transgender people.

It's hard to disentangle the physical, emotional and social consequences of untreated gender dysphoria.

The distress of gender dysphoria and the stigma attached to being transgender are each enough to lead to all sorts of emotional problems. Our suicide rates are alarmingly high: The best-known study found that more than 40 percent of trans people had attempted suicide at some point, compared to less than 5% of the general population. This rate goes down dramatically among people who receive medical treatment for dysphoria, and the further along they are in their

transitions, the lower it goes.

Without surgery, I can't escape the dissonance between my body as it is and the way my brain insists it should be. If I had a flat, firm chest instead of the weight and softness of breasts, I could hold my head up and stand tall and proud. I could look in the mirror and be at peace with my own image. I could, maybe, learn to love my whole self. ■

## #TakeCTRL CAMPAIGN

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Representatives Lesch (DFL), Scott (R), and Lucero (R), along with Senators Dibble (DFL) and Limmer (R)

The following bills were introduced:

- Electronic Communications Privacy Act (ECPA)—Modernizing Minnesota law to ensure that there are reasonable privacy protections for individuals' electronic communications such as email and text messages.
- 1-to-1 programs privacy—Creating protections for students who use school-issued computing devices such as iPads and laptops.
- Student Information Systems (SIS) Privacy—Requiring protections on how and where students' private data is stored and who has access.
- Student tech on campus privacy — Giving students the same privacy protections regarding their personal technology devices that all people are given when not on school grounds.
- Student social media privacy — Prohibiting schools from forcing students to give them access to private social media accounts, except under certain circumstances.
- Employee social media privacy — Prohibiting employers from forcing employees or job applicants to provide access to their social media accounts.

For more information about this effort visit: [www.aclu-mn.org](http://www.aclu-mn.org).

# 2016 ANNUAL MEETING

The American Civil Liberties Union of Minnesota will hold its 2016 Annual Meeting of the Members on Saturday, April 30, 2016 at 9:00 a.m. The meeting will be held at Mitchell Hamline 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, 651-529-1697

## 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.

## NEW BOARD MEMBERS UP FOR ELECTION

**John Miller** is the current President of Tablex-Miller, a wheat farm and mill based in Mexico. He is also on the board of directors for both Inter-American Foods and Sign-Zone, based out of Texas and Minnesota, respectively, and he served as President, Chairman and CEO of Miller Milling Company in Minneapolis from 1985 to 2012. He studied business administration, accounting and economics at the University of Minnesota.

**Scott Flaherty** is a shareholder at Briggs and Morgan and practices principally in the areas of intellectual property, complex commercial disputes, criminal and antitrust issues and e-discovery. He also represents children pro bono through the Children's Law Center and represents adults pro bono through the Federal Bar Association's Pro Se Project and the Volunteer Lawyer's Network.

## BOARD MEMBERS ELIGIBLE FOR RE-ELECTION

**Tim Griffin** is a shareholder at Stinson Leonard Street. He has been a longtime member of the ACLU and has taken a number of cases for the ACLU of Minnesota including representing the Coalition to March on the RNC, students being surreptitiously videotaped in the locker room of their school, Occupy Minnesota and a number of other civil liberties cases.

## PROPOSED BYLAW CHANGES

- The title of Board President have been changed to Board Chair, every reference has been changed.
- The tile of the nominating committee has been changed to governance committee , every reference has been changed.

## PROPOSED NEW SECTION:

SECTION 5.3 Executive Director. The Executive Director shall be the chief executive officer of this corporation. He or she shall (a) have general active management of the day-to-day operations of this corporation, including but not limited to the employment, supervision and termination of other staff; (b) see that orders and resolutions of the Board of Directors are carried into effect; and (c) accept other authority as delegated by the Board of Directors. The Executive Director shall be a paid employee of the corporation under such terms and conditions of employment as determined by the Board of Directors. The Executive Director shall have the authority to grant appropriate titles to certain staff, but such persons shall not be officers of the corporation. The Board of Directors may remove the Executive Director at any time for any reason, subject to any contractual obligations.

Please visit the ACLU-MN's website at [www.aclu-mn.org](http://www.aclu-mn.org) to access the complete proposed changes.

## PROPOSED MEMBER RESOLUTIONS

The following resolutions have been proposed by members of the ACLU-MN. To access the complete resolutions please visit [www.aclu-mn.org](http://www.aclu-mn.org). They will be voted on during the annual meeting. These resolutions are asking for the ACLU to take a position on the following issues:

- **Ban on physical punishment of children:** International law is expanding to include rights for a neglected American minority: children. Minnesota exempts parents from charges of abuse when using “moderate and reasonable” force to correct their children. This resolution seeks to remove that exemption and assert a child’s right to be free from intentional pain.
- **Ban on male circumcision:** A civil libertarian blind spot. Violating personal rights, forced male neonatal circumcision permanently removes about a 3” by 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 actively violate their Hippocratic oath to “first, do no harm.” Effective current child abuse laws necessitate public awareness and legal enforcement, both of which would be strengthened by our stand.

**The ACLU-MN would like to thank Board Members Rebecca Rand and Joel Kramer for their service as they end their term.**

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**Civil Liberties News**  
Newsletter of the American Civil Liberties Union of Minnesota

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