

ACLU Minnesota CIVIL LIBERTIES NEWS

INSIDE THIS ISSUE

PG 3 Free Speech victory //

PG 5 Musical Giving //

PG 6-7 Board Elections //

PG 7 Digital Privacy //



(Photo illustration/flattop341/flickr cc)

LGBTQ RIGHTS

MOM SUES ANOKA SCHOOLS FOR DISCRIMINATING AGAINST HER TRANSGENDER SON

Before N.H. started his freshman year at Coon Rapids High School, his mother talked with the principal to make sure that her son would be safe.

The smart and witty teen had known since he was 3 that he was a boy, and had recently decided to come out as transgender. The principal and other staff reassured his mother about his safety.

The teen joined the boys' swim team and used the boys' locker room with his fellow students for months, without any complaints or problems.

"His diving skills were improving, he was being

treated fairly and felt like he belonged," said his mother, J.H.

But then the school board got involved. They prohibited him from using the same boys' locker room that he had used for months. And suddenly the teen boy's happy high school days were over.

"The board singled the teen boy out," said ACLU-MN staff attorney David McKinney. "They segregated him from his classmates and forced him to use a changing facility that no other student had to use. This degrading treatment made him feel unwelcome and alone."

...CONTINUED ON PAGE 4

ACLU-MN STAFF

Ian Bratlie, GMRJP Staff Attorney

Julia Burman, Operations Manager

Elizer Darris, Organizer

Karla Esqueda, GMRJP Organizer

Rodrick Fields, Philanthropy & Volunteer Coordinator

Benjamin Feist, Legislative Director

Casey Finne, Finance Manager

John Gordon, Executive Director

Judy Hawkinson, Philanthropy Director

Sarah Heil, Director of Finance & Administration

Lynette Kalsnes, Communications Director

Jana Kooren, Community Engagement Director

David McKinney, Staff Attorney

Molly Miller Mons, Manager of Philanthropic Relations

Teresa Nelson, Legal Director

Julio Zelaya, GMRJP Coordinator

ACLU-MN BOARD OF DIRECTORS

Jonathan Abram, Chair
Nicole Moen, Vice-Chair
Ronald DeHarpporte, Secretary
Cassandra Warner, Treasurer
Michele Goodwin, Affiliate Equity Officer & ACLU National Delegate

Ranjit Ahluwalia • Howard Bass
 Shira Burton • June Carbone
 Michael Elliott • Scott Flaherty
 Albert Goins • Joe Green
 Tim Griffin • Jeff Holland
 Jean Holloway • Rachel Hughey
 Keith Jackson • Kathy Juneke
 Raleigh Levine
 Lariss Maldonado
 Colleen McGarry • John Miller
 Mai Moua • Bill Pentelovitch
 James Rowader • Randall Tietjen
 Catherine Wassberg
 Rebecca Rand • Paul Redleaf

EXECUTIVE DIRECTOR'S CORNER

SPRING BRINGS HOPE FOR REFORM



John Gordon
Executive Director

Spring always brings a sense of optimism, and this year is no different. What is different is how much of that optimism is centered on criminal justice reform.

Nationally, passage of the First Step Act, reauthorization of the Juvenile Justice and Delinquency Prevention Act for the first time in 16 years, and Florida's restoration of the vote to people convicted of felonies brought new energy to the reform movement. These were rare victories for civil liberties in an era marked by a presidential administration that's focused on stripping away our basic rights and protections.

Here in Minnesota, where we like to pride ourselves on being a little bit ahead of the rest of the nation, there could be several victories for criminal justice reform: We're taking on these issues with fresh energy that's apparent throughout the state Capitol.

Numerous community groups and civil liberties groups, including the ACLU of Minnesota, are working closely in coalition. It's exciting to be part of so much energy. We're packing hearing rooms with people and offering up the moral and constitutional rationale behind reform.

Bills have been introduced in the Minnesota House that would restore the vote to people convicted of a felony; cap probationary sentences; limit cash bail; reduce criminal and traffic surcharges for those who can least afford them; prevent people from losing their licenses over minor offenses; and reform the forfeiture process, ending "policing for profit."

The heart of all of these measures is simple. Our criminal justice system is driven by socioeconomic and racial disparities at every step of the process, and we need to end these disparities. Parts of our system just don't make sense, legally or ethically.

Consider a woman the ACLU-MN met this legislative session who is on probation for 40 years for drug offenses. She longs to vote, but won't be able to until she is 71. Even though she's since gone to college and is now counseling people with drug and alcohol problems, she could end up in prison for technical violations at any time. Yet she's brave enough to stand before the Legislature, asking it to cap probation and allow her to vote.

It's too soon to say how many of these bills will become law. They're passing speedily through the House, but as of press time, none of them have been heard in the Senate. Watch for ACLU-MN emails, tweets and posts to learn how you can get these reforms passed.

As Minnesotans, we believe in the power of rehabilitation and redemption, and we believe in second chances. It's certainly past time our Legislature acts on it.

ACLU-MN GETS I-94 PROTESTER'S CONVICTION TOSSED

On July 9, 2016, about 1,500 people marched on I-94 in response to Philando Castile's shooting death by police.

Traffic already had ground to a halt when Jeffrey Berger – a peaceful, non-violent protester – stepped onto the interstate to speak out against racism and police violence. He was one of 47 people charged, but the only one who took his case all the way to trial.

The American Civil Liberties Union of Minnesota appealed his misdemeanor public nuisance conviction, arguing that the statute was unconstitutional and too vague, and that there was insufficient evidence to sustain a conviction.

On Jan. 7, the Minnesota Court of Appeals agreed and overturned Berger's conviction. While the court didn't address the constitutional question, it held that the state failed to prove that Berger personally violated the statute.

"We're pleased by the decision," said ACLU cooperating attorney Pari McGarraugh of



Fredrikson & Byron. "Although we think that we have strong constitutional arguments here, this is a strike back against the prosecutorial approach of guilt by association. This decision means the statute is much less likely to be used as a bludgeon against collective action. It protects people protesting in groups because it requires individual proof."

"Jeffrey Berger was rounded up in a mass arrest during a protest," said ACLU-MN Legal Director Teresa Nelson. "The state wanted to subject him to group punishment and chill his freedom of speech, even though it didn't have the evidence to prove he had committed a crime. We hope this decision will prevent that type of government overreach in the future."

Berger said he was happy about the decision.

"If it makes it a little more difficult for authorities to prosecute people for political action, that's a good thing," Berger said. "It increases the cost of suppressing political dissent."

"The important thing is for them to deal with the problems that are causing the protests in the first place, the police killings of people of color," Berger said. "It's part of the racist nature of our society that we have to take care of because it's destroying us."

Attorneys on the case were Pari I. McGarraugh, Kevin C. Riach and Jacob P. Harris of Fredrikson & Byron, and Teresa Nelson of 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-MN REPRESENTS REFUGEE DETAINED FOR 22 MONTHS // A federal judge has ordered that a Rochester man held by immigration officials for months must be released. U.S. District Judge David S. Doty said ICE has held Farass Ali - an Iraqi refugee and lawful permanent resident - for an "unreasonably long" time, in violation of his constitutional right to due process. The government is appealing.

"Judge Doty's decision is a strong reminder to ICE and Sherburne County Sheriff Brott that they cannot simply hold people, and it will help other people in custody who challenge their detention," said ACLU-MN staff attorney Ian Bratlie, who works with our Greater Minnesota Racial Justice Project.

JUDGE APPROVES CLASS ACTION CHALLENGE TO ICE HOLDS // A state district court judge approved class action status for our lawsuit against Nobles County and its sheriff, who have been detaining people for ICE.

"Nobles County and its sheriff have held immigrants for ICE without the proper authority. And the county is doing this even after people have posted bond, had their cases dismissed, completed their sentences or been released on their own recognizance," said ACLU-MN Legal Director Theresa Nelson. "We believe this disgraceful policy violates state and federal law, including our Minnesota Constitution, and it must end."

DARE TO
CREATE A
MORE



A transgender teen's mom (pictured at the podium) is suing Anoka-Hennepin Schools for discriminating against her son. The ACLU of Minnesota and Gender Justice are representing her.

... CONT'D FROM PAGE 1

J.H. stood up for her son's rights. She asked the school board repeatedly to follow gender-inclusion policies like those of the Minneapolis and Saint Paul Public Schools. But Anoka-Hennepin refused, insisting that N.H. must not use the boys' locker room and that he would be disciplined if he did. Instead, they sent him to a separate changing area, away from his friends, all by himself.

The teen boy – who had been doing well academically and socially until the district intervened – started getting bullied and threatened. His mom still gets threats.

That's why the ACLU of Minnesota and Gender Justice filed suit in Minnesota state court against the Anoka-Hennepin School District and School Board. We are suing them for discriminating against N.H. because he is transgender. That violates the Minnesota Human Rights Act and the rights to equal protection and due process under the Minnesota Constitution.

"I didn't choose this battle," his mom said. "The school board chose us. They used their power and went out of their way to create a problem where there wasn't a problem to begin with. They conspired to isolate my son and ultimately their actions altered the course of his life – and our family's life. Through all of this, they robbed him of a normal high school experience."

N.H. ended up in the hospital out of concern for his mental health, an all too common occurrence for transgender youth. Transgender students are two to three times more likely to experience daily verbal and physical harassment. More than half attempt suicide. Eventually, N.H. had to switch schools.

"Every child should have the opportunity to get a good education, to be an athlete and participate in extracurricular activities," his mom said. "They should never have to question their safety because of their identity."

Students should never have to question their safety because of their identity.

What makes this case even more shocking is that the Anoka-Hennepin district already had been sued for discriminating against LGBTQ students, showing a pattern of targeting these kids. That lawsuit, which followed nine student suicides in two years, alleged that the district allowed uncontrolled bullying and created unequal access to education.

The district entered into a five-year consent decree with the Justice Department to deal with and document student harassment. The district was still being monitored when it discriminated against N.H.

Like everyone, transgender students want and deserve acceptance. Allowing them to live as their true selves lowers their risk of depression and anxiety.

"I think we can all agree that it's hard enough being a teenager without the school board stepping in to turn your very existence into the subject of school board debate," said Gender Justice Executive Director Megan Peterson.

Editor's note: We are using initials to protect the family's identity.

DONOR SPOTLIGHT

GIVING TO ACLU-MN IS A MUSICAL FAMILY AFFAIR

There are many ways to give to protect our civil liberties. Not many of them involve the gift of planning an entire benefit for the ACLU of Minnesota, with everything included but the bow.

That's what Jean Carey, her family and friends have been doing for the past three years with the Unity Through Music concert.

After the 2016 election, the master woodwind repairer was frustrated and worried about what might happen to our civil rights. She reached out to her musician friends about a concert benefiting the ACLU and found they were happy to take part. Then Carey roped in her entire family. Her daughters design the posters and staff the ticket table, and their partners act as stagehands.

Musicians who generously donated their talents included: Joanne Opgenorth, Jennifer Gerth, Laura Sewell, Ora Itkin, Wendy Williams, Arek Tesarczyk, Kathryn Nettleman, Greg Milliren, and Macalester's African Music Ensemble (directed by Sowah Mensah) and Asian Music Ensemble (directed by Chuen-Fung Wong).

"Music is a joyous way to connect different cultures, celebrating their diversity and embracing their similarities," Carey said. "It's truly an honor to present this amazing group of musicians in support of the ACLU's efforts."



Top: The Macalester African Music Ensemble performs. Bottom: Jean Carey (center, in red) and her family planned the Unity Through Music concert, featuring solo and ensemble performances by musicians from the Minnesota Orchestra and Macalester College.

5

ANOTHER WAY TO GIVE

There are several ways to support the ACLU of Minnesota. One way is directly transferring stock that has increased in value to the ACLU of Minnesota Foundation. There may be many tax benefits to donating stock, and one significant benefit is the donor can avoid capital gains tax on the transferred securities.

HOW TO TRANSFER STOCK TO ACLU-MN:
To transfer stock electronically, please give your broker the following information:

- Financial Advisor: Raymond James Financial Services, 2401 Lowry Ave. NE, St. Anthony, MN 55418

- Contact at Raymond James: Gavin Burns, (612)782-1526
- DTC #: 0725
- Account #: 30641360
- Account Name: American Civil Liberties Union of Minnesota Foundation
- EIN #: 41-6050012

Please talk to your tax advisor to see if this is the best option for you. After arranging for your contribution, please let us know so we can acknowledge your generosity; stock that is transferred electronically does not identify the donor. Please contact Judy Hawkinson at (651) 529-1695 for more information.

2019 ANNUAL MEETING

The American Civil Liberties Union of Minnesota will hold its 2019 Annual Meeting of the Members on Saturday, April 27, at 9 a.m. The meeting will be held at ACLU-MN, 2828 University Ave. SE, Minneapolis, Minnesota, for the purposes of electing directors and any other appropriate business. **All members in good standing are welcome to attend.** For more information and to RSVP, please email Julia at jburman@aclu-mn.org.

BYLAW INFORMATION

PETITIONER NOMINATIONS (SECTION 2.4)

Voting Members shall have the right to nominate directors by mailing such nominations to the Board Chair by the first day of the month of October immediately preceding the annual meeting of Voting Members. Such nominations must be accompanied by:

- (a) a petition signed by at least twenty-five (25) Voting Members for each individual nominated;
- (b) a statement by the nominee that she/he is willing to serve as a director; and
- (c) an accurate, written biographical statement of the nominee, which shall not be more than eight (8) typed lines of no more than sixty (60) characters per line.

AMENDMENTS TO THE BYLAWS (SECTION 8.1)

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.

Meetings, Voting. Each proposed amendment requiring a vote by the Voting Members shall be considered at the next annual meeting of the members, unless the party proposing the amendment makes a demand to the Board Chair for a special meeting. If a special meeting is demanded, the Secretary shall call a special meeting pursuant to Section 2.2 hereof. An amendment to the Bylaws shall be adopted upon the affirmative vote of eighty percent (80 percent) of the members present and

...CONTINUED ON PAGE 7

entitled to vote at the meeting, provided however that at least fifty (50) Voting Members are present.

Notice to Voting Members. Notice of a meeting at which the Voting Members are entitled to vote on an amendment to the Bylaws shall include a copy or summary of each proposed amendment and shall be mailed to each Voting Member at least thirty (30) days prior to the meeting at which the amendment is to be considered.

GOVERNANCE COMMITTEE NOMINATES BOARD MEMBERS

BOARD MEMBER TO FILL REMAINDER OF THREE-YEAR TERM

Jeff Holland is an IT business consultant for Delta Air Lines. He volunteers as a board member of the Consortium Carissimi arts organization.

FIRST-TERM BOARD MEMBERS

Ranjit Ahluwalia is a portfolio manager at Whitebox Advisors. He previously was a senior analyst at Silver Point Capital and a managing director at CarVal Investors. He has more than two decades of experience as an investment analyst.

James Rowader is vice president and general counsel of employee and labor relations for Target. He leads a large team of attorneys, paralegals and HR professionals that provide all of the corporation's labor and employment legal services. He is vice chair of the City of Minneapolis's Workplace Partnership Group.

SECOND-TERM BOARD MEMBERS

Scott Flaherty is a shareholder at Briggs and Morgan. He does pro bono work through

the Children's Law Center, the Federal Bar Association's Pro Se Project and the Volunteer Lawyer's Network. He is former chair of the Minneapolis Commission on Civil Rights and serves on the board of the Hallie Q. Brown Community Center.

John Miller was president, CEO and chairman of Miller Milling Company from 1985 to 2012. He is past chairman of the Minneapolis Grain Exchange, the North American Millers Association and numerous other companies and associations. He currently serves on several boards and owns several businesses. He is a graduate of the University of Minnesota and a U.S. Army veteran.

THIRD-TERM BOARD MEMBER

Timothy Griffin is a partner at Stinson Leonard Street. His pro bono work involving constitutional issues includes briefs on open records laws and restrictions on off-campus online speech, and representing protestors.

Board members serve three-year terms.

PROTECTING OUR PERSONAL DIGITAL PRIVACY

The ACLU of Minnesota is seeing hopeful signs that our state Legislature may act to safeguard our privacy where the federal government is failing to do so.

Minnesota House File 1196 would prevent employers from forcing employees to provide usernames and passwords to their personal social media accounts or to show employers these accounts.

Under HF 1197, law enforcement couldn't make a service provider give access to an electronic device like a cell phone, or information on it, without a warrant, wiretap or consent of the device's owner. There are exceptions for emergencies.

HF 1236 regulates drone surveillance by law enforcement and requires warrants. Agencies using this technology would be subject to reporting and transparency requirements.

All these bills have matching Senate bills. Watch for updates on ACLU-MN social media and emails.

P.O. Box 14720
Minneapolis, MN 55414

Civil Liberties News
Newsletter of the American Civil Liberties Union Foundation of MN

Non-Profit
Organization
U.S. Postage
PAID
Twin Cities, MN
Permit No. 1

SAVE THE DATES

April 8, 6:30-8:30 p.m.

TAP THE CONSTITUTION

Bent Paddle Brewing, Duluth

Play ACLU trivia with us at Bent Paddle and get a chance at great prizes! Free. RSVP to mmiller@aclu-mn.org or at www.aclu-mn.org/events.

April 10

ACLU-MN LOBBY DAY

Stand up for our civil liberties with the ACLU of Minnesota at the State Capitol! Get a free new ACLU-MN T-shirt. Sign up at www.aclu-mn.org/events.

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

Visit aclu-mn.org to signup for our mailing list.

STAY CONNECTED



[FACEBOOK.COM/ACLUMN](https://facebook.com/ACLUMN)



[@ACLUMN](https://twitter.com/ACLUMN)



[@ACLUMN](https://www.instagram.com/ACLUMN)

WWW.ACLU-MN.ORG