



ACLU

**AMERICAN CIVIL LIBERTIES UNION
of MINNESOTA**

CIVIL LIBERTIES NEWS

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ACLU-MN sues to overturn massage therapist law

In November 2007, The American Civil Liberties Union of Minnesota, on behalf of LaRae Lundeen Fjellman and Associated Bodywork and Massage Professionals, filed a lawsuit against the current and former Commissioners of Health for the state of Minnesota. In their lawsuit they allege that the Minnesota statute (§146A.08, subd. 1(d)) which prohibits alternative health care providers from engaging in acts of private, consensual, noncommercial marital and non-marital sex with a former client within two years of termination of the professional relationship violates the rights of privacy and equal protection guaranteed by the Minnesota and United States Constitutions.

The lawsuit also challenges the Minnesota statute (§146A.08, subd. 1(q)) that prohibits social contact and friendship between a massage professional and a client, saying that it is unconstitutionally overbroad and vague. The law is so broad it might even prohibit a massage professional from accepting tips from or exchanging gifts with a client.

The lawsuit asks the court to rule that the law is unconstitutional, enjoin the state from enforcing the law in the future, and award damages to Mrs. Fjellman to compensate her for the ordeal she was put through while being investigated by the Department of Health. Mrs. Fjellman was disciplined for entering into a personal relationship and marrying a former client within two years of ending their professional relationship. The discipline was eventually rescinded, but not before Mrs. Fjellman was humiliated in her community, and forced to pay thousands of dollars in attorney's fees defending her constitutional rights.

Save the date - March 13 is ACLU-MN's Day at the Hill

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Mark your calendars! On March 13, the ACLU-MN is hosting their second annual day at the hill. There will be a short training session in the morning, followed by a rally with speakers, and then the attendees will break out into district groups for meetings with their legislators.

We are expecting a wide range of issues to come up this year at the legislature, including but not limited to: reproductive freedom, data privacy, criminal justice, immigrant rights and voting rights. The Day at the Hill is free and open to anyone who supports the Constitution. Register online at www.aclu-mn.org. If you have any questions please contact Jana Kooren at 651-645-4097 x123 or jkooren@aclu-mn.org.

Please join us in showing our legislators that civil liberties are important to Minnesotans. We hope to see you there!

From the Executive Director

Charles "Chuck" Samuelson



Republican National Convention

On January 3, over 60 people marched on one of the coldest days of the winter. When they hit the streets on September 1, there will be thousands more than the 60 hardy demonstrators who marched this January third. The ACLU-MN will be there as well – with your help. More than a dozen leaders of the largest law firms in the area have been meeting for a year, researching the law in preparation to advise and defend the rights of people to peacefully assemble and to peacefully speak their truth to power.

There are 12,000 ACLU supporters in Minnesota. We have quietly participated in the political and economic life of Minnesota, but we now have an opportunity to stand (more or less quietly as the spirit moves us) for the rights that make us Americans. Here are some thoughts:

First, if you are an attorney and you'd like to volunteer to potentially defend demonstrators, send Terri Nelson your contact information (e-mail, snail mail, and phone). Her email address is: tnelson@aclu-mn.org. We fear that between 500 and 1500 demon-

strators may be arrested and will need to be represented at their arraignments and beyond. We will hold a CLE/training on defending demonstrators in June and will contact you as soon as the date is set.

Secondly, if you want to volunteer as an observer or as a coordinator in the office, please email Jana Kooren (jkooren@aclu-mn.org) with your contact information (email, snail, and phone). We will need people at the demonstrations and people who can man the phones during the week of the demonstrations etc.. Please let Jana know what you'd like to do.

Finally, if you have the financial capacity to support our efforts, we will need to raise \$150,000 to support this effort. Please contact Chuck Samuelson, csamuelson@aclu-mn.org if you are interested in discussing your interests and our needs.

Together we have the once in a century opportunity to show the country how to conduct political dialogue.

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From the President

Therese Marso



Strategic planning update

Written by Wallace Hilke, Vice President

“Amid a multitude of projects, no plan is devised”

-Chuck Samuelson, 2007

Of course, this quote is misattributed. The many classicists among our members will immediately recognize that it was maxim-writer Publius Syrus, not ACLU-MN Executive Director Chuck Samuelson, who first uttered these words. Those who know Chuck will just as quickly realize that (a) Chuck does not use passive language, and (b) Chuck prefers action over mulling. Regardless, the words aptly describe the ACLU-MN.

Over the past several years the ACLU-MN greatly expanded its litigation activities, founded the Greater Minnesota Racial Justice Project, established a meaningful presence at the Legislature, and greatly expanded its outreach to and presence in Minnesota schools. Our growth has addressed immediate needs and seized excellent opportunities but has not been planned. As we face a time of anticipated growth, the ACLU-MN has paused to develop a strategic plan.

Our strategic planning committee consists of old and new board members and current and former board leaders. Perhaps more importantly, our committee includes the same type of thoughtful, head-strong, and committed individuals who constitute our membership. This has made for robust and reflective debate regarding the current status of our growing affiliate and the best use of our limited resources.

The strategic planning process began in August 2007 with a series of assessment sessions in which we heard from and sometimes cross-examined the heads of our main project areas: Teresa Nelson (legal and legislative); Jana Kooren (public education and outreach); Audrey Thayer (the Greater Minnesota Racial

Justice Project), and Chuck Samuelson. These sessions focused on our affiliate’s recent history, successes, challenges, and opportunities to promote and protect civil liberties throughout Minnesota. In order to assure candid disclosures from these professionals, we employed the standard sleep deprivation tactic of meeting at 7:00 a.m.

We also heard from members, financial supporters and organizations with connections to ACLU-MN. Many of you responded to surveys and provided valuable feedback. The respondents praised our legal work and took us to task for not doing a better job of outreach and explaining exactly what we do as a state affiliate. They voiced tremendous support for our traditional mission of promoting free speech, religious freedom, and separation of church and state. Respondents also expressed strong interest in having our affiliate protect privacy, GLBT rights, voting rights and, of particular interest, the civil liberties of the vulnerable and disadvantaged. The committee carefully considered and, for the most part, embraced your responses as will be reflected in our recommendations.

The strategic planning committee presented a draft strategic plan to the board at its mid-January meeting. Recommendations in the draft plan include improving communications with members and supporters; strengthening all of our core activities; and eventually, expanding to address state-wide violations of civil liberties.

We look forward to reporting on the detailed strategic plan as it is adopted by the board and we invite your continuing feedback on our programs and activities.

Legal update

Sump pump inspections

The ACLU-MN sent a letter to the city of Vadnais Heights last month asking for changes in their sump pump inspection policy, and city officials responded by agreeing to change the inspection program so it no longer infringes on constitutional rights. The city of Vadnais Heights' former policy reads that if the resident does not allow city inspectors into their home to inspect the pump they could face fines.

Sanitary sewer systems can only handle a certain amount of water. When it rains, sump pumps are switched on to rid excess water from basements, often into the sewer system through illegal connections (the approved method of removing excess water is to direct it back to the ground surface or into the storm sewer system, not the sanitary sewer system). The Metropolitan Council, which operates wastewater treatment plants covering most of the Twin Cities' area, gave the city of Vadnais Heights the option of reducing the amount of water entering the system or face a \$70,000 fine.

However, the city failed to protect the constitutional rights of its residents when it mandated that homes be searched by the city for illegal sump pump connections. The fourth amendment only allows searches of homes with consent or a valid search warrant. The ordinance imposed an improper fine on individuals who exercised their fourth amendment right to refuse entry without a warrant.

Vadnais Heights resident Don Jorgenson sent a letter to the ACLU-MN after hearing of the policy. After learning of the policy from Jorgenson, the ACLU-MN sent a letter to city officials requesting that the inspection practices be changed. As for Vadnais Heights' policy change, Jorgenson is pleased with the city's quick response to the ACLU-MN's letter. "I'm glad to see that they're going to respect the citizens' constitutional rights."

Free speech on freeways

The American Civil Liberties Union of Minnesota recently brought together the Minnesota State Patrol with freeway demonstrators to talk after numerous demonstrators were hassled or asked to leave the overpasses by the State Patrol. State Troopers claimed that the signs the protestors were holding were distracting the drivers and were dangerous.

During the meeting, ACLU-MN facilitated the discussion between the two groups and reminded them that the first amendment protects the rights of individuals to hold signs on overpasses as long as they follow a certain set of rules.

Minnesota State Highway Patrol agreed that the law did indeed protect the demonstrators' right to be there, and said that they would remind their officers and dispatchers of their policy:

"Individuals who are holding signs in a location that is legal for them to walk or stand are in compliance with state statute and are permitted to hold signs without restriction."

Individuals who are holding signs in a location that is legal for them to walk or stand are in compliance with state statute and are permitted to hold signs without restriction. Signs may not be placed into or upon the ground, held up against the fence or attached to a fence, post or other structure.

A copy of the complete policy is available at our website www.aclu-mn.org

Normandale Community College Prayer Room

The American Civil Liberties Union of Minnesota announced that it is investigating Normandale Community College's meditation room after receiving complaints of improper use. The ACLU-MN is concerned that way the prayer room is currently structured may violate the establishment clause, which

(legal—Continued on page 5)

Legal update

states that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

The ACLU-MN sent a letter to Normandale Community College asking for more information about how exactly the prayer room is used, and explaining what the current laws say about reasonable accommodation. ACLU-MN does not oppose allowing students a space to pray, but the school must allow students of all denominations equal access to space. In the letter to Normandale Community College we urge that if the allegations are indeed true, that Normandale must take immediate action to remedy the problem. The president of the university has since contacted us and said he would remedy the situation. We are awaiting confirmation that the situation has changed.

Mounds View School Board

The ACLU-MN has agreed to represent Mounds View School Board Member, Susan Murphy, in her battle to maintain her spot on the school board. Immediately after she was sworn in, Murphy was told she may have to resign her position due to a conflict of interest. Murphy's husband is a unionized custodian in the school district and this year the union contracts are coming up for review.

The ACLU-MN has agreed to represent her, because we believe her removal from the board would not only deprive her of her civil liberties, but would deprive the 2,900 people who voted for her in the school board election.

The ACLU-MN believes that if a conflict of interest does exist a better remedy would be recusal when the issue arises rather than a removal from the board.

This cartoon is attributed to Cam Cardow of the Ottawa Citizen

Craig's Appeal Brief

The ACLU of Minnesota submitted an amicus brief in support of Senator Larry Craig's appeal to have his guilty plea withdrawn. The American Civil Liberties Union supports Senator Larry Craig's attempt to have his guilty plea withdrawn because the Minnesota law under which he was arrested is unconstitutionally broad. The statute punishes "offensive, obscene or abusive language" which tends to arouse "alarm, anger or resentment" in others. Clearly, this law has the potential to ensnare and criminalize legal, constitutionally protected free speech including solicitation for private sex.

The Minnesota Supreme Court and other courts have found that a closed bathroom stall is a private location. The police have no business spying on people in places where there is an expectation of privacy. The ACLU is in no way advocating sex in public bathrooms. If law enforcement is genuinely interested in stopping sex in public bathrooms rather than ensnaring people in sting operations, posting a sign prohibiting it and announcing police patrols would be much more effective and would meet constitutional requirements.

You can read the amicus brief online at: www.aclu-mn.org.



ACLU rallies for closing of Guantanamo Bay

More than 60 demonstrators gathered in uptown Minneapolis on January 11, 2008 to commemorate the six-year anniversary of the first prisoners arriving at Guantanamo Bay. The rally was part of a national ACLU effort to draw attention to the issues surrounding Guantanamo Bay. The ACLU-MN joined with other peace activists to host this rally. Demonstrators wore orange to show that they believe in habeas corpus and fair trials and don't think that any president should ever be given the unchecked power to call someone an enemy and lock him away indefinitely. They rallied because Guantanamo Bay should be shut down.

Since 2002 Amnesty International estimates that at least 775 people have been detained at Guantanamo Bay. However, zero trials have been completed. There are still over 205 detainees who remain at Guantanamo Bay as of December 1, 2007. People as young as 13 and as old as 98 have been held at Guantanamo Bay as prisoners.

If you would like to find out more information about Guantanamo Bay and what you can do to help please visit: www.aclu.org/closeguantanamo.



ACLU-MN works to overturn lurking law in Minneapolis

The ACLU-MN has joined forces with over forty organizations to support the repeal of Minneapolis's lurking law. The law reads: "No person, in any public or private place, shall lurk, lie in wait or be concealed with intent to commit any crime or unlawful act 385.80." Minneapolis is one of a few large cities in the country that has this law.

This law is being applied extremely discriminatorily in Minneapolis. Homeless people and people of color are targeted at a much higher rate than Caucasians.

There were 167 people arrested or cited for "lurking" in the City of Minneapolis in 2006, 133 of these people, or more than 80%, were people of color. A homeless person is 20 times more likely than a non-homeless person to be cited for lurking. The ACLU-MN also opposes this law on the grounds that it is vague and allows police officers too much discretion.

Council member Cam Gordon introduced the repeal, the public hearing date has yet to be set. To find out more visit www.aclu-mn.org.



Demonstrators rally to close Guantanamo Bay

Are you a young professional? Are you interested in planning ACLU events for other young professionals in the metro area? If so, join our newly formed Young Professionals Committee. Contact Jana Kooren at 651-645-4097 x123 or jkooren@aclu-mn.org for more information.

ACLU Attorney wins award

ACLU-MN cooperating attorney Tim Branson of Dorsey & Whitney, LLP was honored with Minnesota Lawyer's prestigious Attorney of the Year award for 2007.

Tim Branson has been a key attorney in many of our legal cases. This particular award recognized his outstanding work in achieving a settlement against the Drug Enforcement Agency in our racial profiling lawsuit, Berg v. DEA.

ACLU hires Legislative Consultant

The American Civil Liberties Union of Minnesota is pleased to announce that it has hired longtime volunteer Carolyn Jackson as a legislative consultant.

Carolyn has been volunteering with the ACLU-MN since 2002. During this time she has been tracking legislation in the Minnesota Legislature and helping draft testimony before legislative committees. Before retiring to become a full time mom, Carolyn practiced municipal bond law in Illinois, and prior to that she was a political activist in Illinois and Iowa. Carolyn has a J.D. from the University of Michigan and a B.A. from Northwestern University. She is married with two school-aged children.

Mark your calendars!

Upcoming events:

March 6th & 7th—Indigenous Film Festival—Bemidji, MN. The Greater Minnesota Racial Justice Project is a sponsor

March 13th—ACLU Day on the Hill, register today at www.aclu-mn.org

April 26th — Annual Membership Meeting,, Hamline University 10:00 a.m.— Noon. More details to come.

Befriend us!

The ACLU-MN now has a Facebook and Myspace page. Befriend us to get all the latest news and event information.

We need your emails

One of the best ways to get information to you in low-cost, fast, efficient and environmentally friendly way is via email. However, we do not have the majority of our members' email addresses. So please help us out by giving us your email address. You can either submit it online at www.aclu-mn.org—there is a button that says "Join our legislative action network," or the next time you make a donation you can include your email address with the donation.

Thank you!

*In memory of
Herdis Jensen
- Byron Thayer*

If you wish to make a gift to the ACLU of Minnesota in the name of someone who is celebrating a milestone event, to honor their life, or simply to wish them well, give us a call. Contact Molly Miller 651-645-4097 x127, the Assistant to the Executive Director and give her the name and address of the person you wish to honor, your name and address, and the amount you wish to donate; we will send you a bill. We will send the honoree (or their family) a letter indicating that a donation (without listing of the amount) has been given to the ACLU of Minnesota in their name. Your name and address will be furnished to the honoree as well. You will receive a letter from the ACLU-MN indicating the amount of the gift. Donors of more than \$25 will be listed in the next newsletter, unless the donor wishes to remain anonymous.

Civil Liberties News

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