

ACLU Nebraska News

Summer 2008



ACLU NEBRASKA versus STUPID LAWS

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Summertime in Nebraska is when flowers, tomatoes and political signs start sprouting up all over. The problem is that some cities have local ordinances prohibiting election signs from being displayed until a month before the election. Lincoln and Bellevue, for example, both make it a crime punishable by a large fine if a homeowner puts up a sign for a favorite candidate too early.

In Lincoln, we heard complaints that the city was actually confiscating signs that were up. Another resident came home from work to find a warning ticket hanging on his front door, directing him to remove his "Obama for President" sign immediately or pay \$500 as a penalty. In Bellevue, a homeowner with a "Bob Barr for President" sign began to worry he would be targeted next when he discovered the local laws.

"I just didn't get it," said Lincoln resident Darryl Rivers, whose Obama sign was the subject of a warning from the Building and Safety Department. "I'd sold a house last year and the 'For Sale' sign stayed in my yard almost nine months without any problem. But as soon as I express my political beliefs, I get threatened with a fine? That's just not American."

Several people in addition to Darryl contacted the ACLU, asking for help with their political signs. "These sorts of cases are classic examples of stupid government," said ACLU Nebraska Legal Director Amy Miller. "They are literally wasting city resources to chase after 'criminals' whose crime is only expressing themselves on their own property. The First Amendment to the US



Darryl Rivers of Lincoln

Constitution does not have a footnote that says we all have free speech—but only thirty days before elections."

The question of whether such city ordinances are constitutional was made particularly easy in this situation since the 8th Circuit, which is the federal district covering Nebraska, has already ruled such sign limitations violate free speech protections.

At the time of writing, ACLU Nebraska has contacted both Lincoln and Bellevue to advise them their city laws are not enforceable. We've asked both cities to stop ticketing citizens while they review the caselaw and, ultimately, asked for a pledge that the ordinances will be repealed. The ACLU Board of Directors has authorized filing a lawsuit if negotiations are not successful.

If your community has a similar sign limitation on political signs, please contact our office. We intend to educate every city attorney about residents' rights, but we can only do our job if we know there is a problem. Reach us by email at info@aclunebraska.org, by phone at (402) 476-8091.

A Solution In Search Of A Problem

By Danielle Nantkes, Field Director for Nebraskans United

Nebraskans United is a group of concerned citizens devoted to promoting equality, fairness, truth and diversity in the state of Nebraska. We've come together to rally against a proposed constitutional amendment to ban programs that promote equal opportunities for women and minorities in Nebraska. Nebraska business groups, educational institutions, faith groups, grassroots organizations, and individual citizens are part of our statewide team. We are proudly 100% funded by Nebraskans.

Our opposition, the well-financed out of state radical political interests led by Mr. Ward Connerly, claimed to have turned in a significant number of individual signatures from all of Nebraska's 93 counties by the deadline to qualify this dangerous initiative for the November 2008 ballot. Over 90% of our opposition's funding comes from out of state.

Mr. Connerly and the deceptively named "American Civil Rights Institute" has targeted five states with similar petition efforts in 2008. Those states are Oklahoma, Missouri, Colorado, Arizona and Nebraska. Oklahoma's effort was disqualified by the Secretary of State due to a blatant pattern of fraud and illegalities in the signature gathering process. The Missouri effort failed to garner enough signatures to turn in and Colorado and Arizona's efforts are embroiled in litigation due to additional evidence of widespread fraud and have not yet been certified for the fall election. California, Michigan, and Washington passed similar measures in recent years. It is important to note that a well established pattern of *systematic voter fraud* by Mr. Connerly and his allies has been documented in each state they have entered.

So where are we at in Nebraska?

Nebraska law requires that in order for a constitutional initiative to be successful it must gather signatures from 10% of registered voters in at least 38 of Nebraska's 93 counties. Approximately 113,000 valid signatures are required to certify a ballot question. Currently, county clerks and election commissioners across the state are engaged in a line by line verification process of the submitted petitions and signatures. Already 2 counties have failed to qualify and additional evidence of fraud in the process has been uncovered by local officials. Additionally, Nebraskans United ran a comprehensive field campaign over the early spring and summer that identified hundreds of instances of potential fraud and illegalities in the process which will be turned over to local officials.

Nebraskans United is fully committed to utilizing all strategies available to ensure that Nebraska's law is fully respected and the rights of countless individual voters are fully vindicated after receiving reports of misleading tactics and rhetoric utilized by our opposition and verified from a variety of

(Continued on p. 7)

WHAT ACLU NEBRASKA DID ON OUR SUMMER VACATION



At Lincoln Gay Pride: Executive Director Laurel Marsh, Beth McQueen and UNL law clerk Jackie Cornell



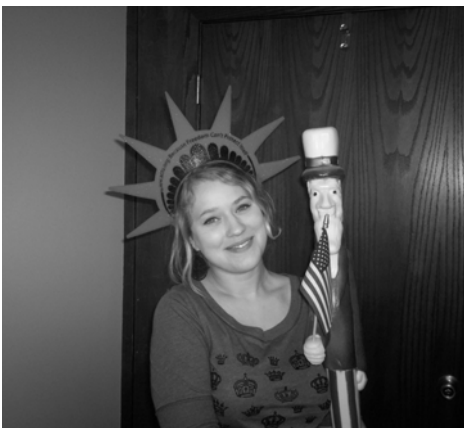
Legal Director Amy Miller hangs out with Lady Liberty at the Membership Conference in DC



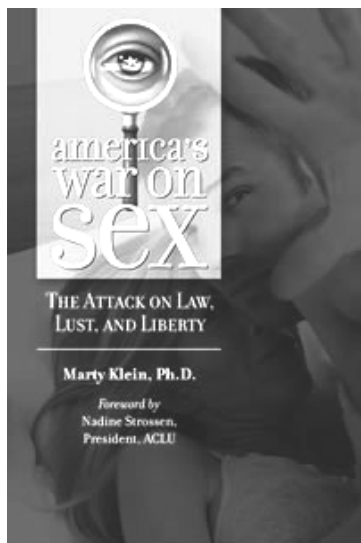
Tyler Richard IS Lady Liberty at the Membership Conference in DC



Nebraska delegation at the DC Membership Conference. Back row, left to right: Tyler Richard, Joe Brown, Christy Abraham. Front row, left to right: Laurie Thomas Lee, Laurel Marsh, Sam Walker, MaryAnn Lamanna. Not pictured: Eileen Durgin-Clinchard and Amy Miller



Summer intern Virginia Andersen of Grinnell College poses with Uncle Sam during a break from work in the office.



“What’s Sex Got to Do With It?”

On October 10, 2008 at the LaVista Embassy Suites Hotel and Conference Center, Marty Klein, PhD, will present “What’s Sex Got to Do With It?” at the Nebraska Association of Social Workers’ annual conference.

Dr. Klein has been a marriage counselor and sex therapist for 24 years. He describes his work as “helping people understand and accept their sexuality. I’ve continually called attention to the social and political conditions that keep so many of us feeling guilty, confused, scared, and hopeless about our sexual feelings and relationships.”

Klein’s newest book is *America’s War on Sex: The Attack on Law, Lust and Liberty*. The introduction is written by Nadine Strossen, President of the ACLU. The book shows how the government and Religious Right use the regulation of sexual expression, entertainment, information, and health care to undermine our secular democracy. His research shows how today’s public policies attempt to solve the wrong sexual “problems”- guaranteeing more of the real sexual problems with which American individuals and communities continue to struggle. Of course, more repressive “solutions” to these problems don’t work either.

"Although every Alabaman has a legal right to own a gun, they don't have the same right to own a dildo," says Dr. Klein. Untangling myths about "obscenity," porn's actual effects, and so-called "activist judges," Dr. Klein will be presenting the NASW keynote speech on “Working with Families: What’s Sex Got to Do With It?”

A special ACLU-member price to attend just the keynote speech is available for \$25. Learn more at their website: www.naswne.org or call the NASW office toll free at 877-816-6279.



John Darkow, Columbia Daily Tribune, Missouri

.....taking the long view

A message from ACLU Nebraska Executive Director Laurel Marsh

I'm an accountant by training. One subject of frequent lectures was the time-value of money. Guidance on investing told us to save regularly, to invest early in our lives, and to let the miracle of compound interest work to make us wealthy.

When people talk about money they are willing to consider the long term. We plan for our children's college; we finance the purchase of our homes via long-term mortgages; we plan during our working lives for retirement. We plan and act based on financial principles born of long and successful use. The common wisdom does not embrace fads in financial planning.

So why is it that Nebraskans, so astute in one area, eschew historical wisdom when it comes to addressing current problems?

Omaha is thinking *short term*. Right now ACLU Nebraska is appealing a ruling in Omaha denying our mandamus suit through which we ask the City of Omaha to hire a police auditor as required by city ordinance. The 2007 "Traffic Stops in Nebraska" report issued in April 2008 showed that statewide blacks, Hispanics and Natives were more likely to be arrested and searched during traffic stops than were whites. Significant anecdotal evidence in Omaha says racial profiling in traffic stops is a problem. The lack of an independent reviewer of police actions leads to distrust between Omahans and the police force sworn to protect them. This does not benefit the city in the long run.

Our Federal government is also thinking *short term*. In July Congress caved in to George Bush's fear mongering and passed a FISA surveillance bill that gives the president unconstitutional authority to wiretap people and read their emails without warrants. The ACLU, representing a broad coalition including

"One person's short sighted grab for power seriously undermines our right to express ourselves without fear of governmental reprisal."

Amnesty International USA, Human Rights Watch, SEIU, and The Nation, as well as prominent journalists, filed suit to prevent the implementation of the law. In just one week, 65,000 people signed a petition to support our lawsuit. One person's short sighted grab for power seriously undermines our right to express ourselves without fear of government reprisal.

Public policy decisions must comport to our basic documents. As Aaron Caplan, former staff attorney at the ACLU of Washington, put it, "I did not predict that much of the ACLU's work in the years since the terrorist attacks of September 11 would be devoted to defending the concept of the rule of law itself, which has been assailed by the pernicious argument that it is somehow an unaffordable luxury for the government to follow the rules that protected our nation's freedoms for two centuries." This July the City of Fremont upheld the Constitution when they voted to defeat a proposed ordinance that sought to punish landlords and employers for doing business with undocumented immigrants. Though many expressed frustration at Congress's failure to draft a workable immigration policy, they recognized that people who enter the United States, even if without legal authorization, are not stripped immediately of their rights because of this single act. The 14th Amendment applies to all people *present* in the U.S., whether they are born here, immigrated here through legal means or violated Federal law to enter the country. It was a difficult vote for the Council to take. Fremont is to be commended for taking the *long view*.

ACLU Nebraska must also take the long view. Our Board sets policy and direction for our Nebraska affiliate. **You can help!** We need to know what you think! Look ahead 3 to 5 years.

1. What changes should ACLU Nebraska make between now and 2013?
2. What single issue should we address to make the biggest impact for civil liberties in Nebraska?
3. What practices or policies should we discard?
4. As a member, what types of programs or events would you most like to see?

Please get your ideas to Laurel Marsh by **September 8, 2008**. You can mail back this page, e-mail or call. Just let us know what you think! ACLU Nebraska, 941 "O" Street, Suite 706, Lincoln, NE 68508;

lmars@aclunbraska.org; 402-476-8091. Many thanks!



FIGHT FOR THE OMAHA POLICE AUDITOR CONTINUES

ACLU Nebraska filed suit against the city of Omaha this spring to force the city to hire another independent police auditor. The city has been plagued with an ever-increasing number of complaints against police, especially by minority residents.

Omaha voluntarily created the position of an independent auditor to take citizen complaints against the police. The auditor, Tristan Bonn, did her job—too well, in fact. She was fired after releasing a series of reports criticizing the police and calling for reform within the department.

While there is no requirement that cities have an independent police auditor, it is a good policy that increases citizen confidence in the process of complaints against police. And once Omaha passed a city ordinance that affirmatively created the position, that law became an official promise to Omaha residents. The city's failure to fill the auditor position almost 2 years after Bonn's dismissal has left a gap and broken the law's promise. ACLU Nebraska's lawsuit is a "writ for mandamus"—that is, an action that asks a court to order the city to fulfill the promise by hiring an auditor.



Tristan Bonn and Charles Parks at ACLU banquet.

The lawsuit was dismissed by the trial court judge, the Honorable Sandra Dougherty of the Douglas County District Court. She held the hiring of an auditor was a discretionary matter for the city council to do or not do as they see fit. ACLU Nebraska cooperating attorney

Bob Broom of Omaha has filed an appeal to the Nebraska Court of Appeals.

The case was filed on behalf of two North Omaha activists: The Reverend Bill Rollerson and Mr. Charles Parks. Both men have long standing histories of working for improved police services to the minority communities of Omaha.

Our lawsuit only asked for a judicial order that would require the city to hire a police auditor. The appeal may take many months before it is finally ruled on, but good news may loom from the city itself: the Mayor's proposed 2009 budget *does* include funding for a new auditor.

Whether the victory comes from the city's cooperation or a court order, ACLU Nebraska has pledged to keep up the fight.



Welcome New Board Member Kris Lausterer and Thanks to Outgoing Board Member Nelson Potter

Following the spring election of the Board of Directors by ACLU members, we're pleased to announce new board member Kris Lausterer. Kris is a Nebraska native and physical therapist who lives in Omaha. He says, "This has been a difficult time for our country when many of our civil liberties have been challenged. I have a great desire to make sure that justice and freedom remain cornerstones of our democracy."

The ACLU Nebraska Board passed a formal proclamation of thanks to outgoing board member Nelson Potter. Nelson's passion for civil liberties, especially his commitment to abolition of the death penalty, will be missed. (But we hope to see him just informally on a regular basis, right, Nelson?)

("Nebraskans United" continued from page 2)

independent media sources. We are working closely with members of our campaign coalition and national experts as well to explore legal strategies and prepare for a general election campaign if necessary.

So why are so many Nebraskans from across the political spectrum so committed to defeating this initiative?

Under Nebraska state law there are no gender or race based quotas or preferences utilized in state hiring or contracting. Thus, this initiative will have little if any effect on those areas. However, there are a number of widely popular economic development, public health, and higher education programs at risk if this constitutional amendment is ultimately adopted.

Check out the Nebraskans United website to find out more information and ways that you can help the cause:

www.NebraskansUnited.org

The experience of other states has demonstrated challenges to breast cancer research and screening programs, business development programs targeted to underrepresented groups and individuals, and most notably the elimination of countless public and private scholarships aimed at increasing access to higher education for all students.

Here is a very short list of specific programs at risk: Men Into Nursing Program (UNMC), Daub Family Scholarship (students of German heritage), Nell Smith Scholarship (women students from Cass/Sarpy county), Cather Circle Mentoring Program (women students & alumni), and countless others for a more complete list see <http://www.unmc.edu/LC233CA/DiversityImpactUNO-UNMC.pdf>. Additionally, this initiative poses sincere challenges to ensuring a diverse faculty can be recruited and retained among our institutions of higher learning. For example in California, four years after a similar measure was adopted hiring of female faculty declined from 52% to 13% at the University of California.

Overall this initiative will undercut Nebraska's ability to develop a diverse workforce, key to being competitive in a 21st century economy; eliminate programs that enable our University to continue its tradition of excellence in athletics and academics; and hinder Nebraska's ability to create public policies aimed at fostering the "good life"- fairness, opportunity, and inclusion for all citizens.



YOUTH ACTIVIST STAND UP SCHOLARSHIPS

The national ACLU has announced its 2009 Youth Activist Stand Up Scholarship Program. **16 high school students will receive a college scholarship in the amount of \$12,500 each.** Additionally, the 2009 recipients will attend two Youth Activist Leadership Institute trainings, one in the New York National office and one in the Washington Legislative office, to equip them with the tools and skills they need to continue their civil liberties work on their campuses and in their communities.

Start thinking of high school students who have made an effort to promote civil liberties, and encourage them to apply. Last year's winners were chosen for starting a GSA at their school, for lobbying at their state legislatures, for being a peer educator on reproductive health, for challenging censorship at local libraries, for advocating for nondiscriminatory policies at their school, for whistleblowing on creationism in the classroom, for making educational films, and much more.

Youth applications can only be submitted through the local affiliate, so the student in your life should submit an application to ACLU Nebraska. Details will be provided in our fall newsletter and will be posted on our website at www.aclunebraska.org. The deadline will be December 5, 2008.



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Learn more at the CSF website:

www.CommunityServicesFund.org

CHOCOLATE PARTY ALERT

Save the date for the 4th annual ACLU
Nebraska Holiday Chocolate Party: Friday
December 5, 2008 at
Jack Saltzman's home in Lincoln.

More information will be provided, but
make sure it's on your calendar now; after
all, it's CHOCOLATE!