

ACLU Nebraska News

Fall 2009



In This Issue:

Academy of Rock p.1

One Letter Turns
Into Statewide
Advocacy p. 2

Thank You, Summer
Interns p. 3

Immigrant Training
in Lexington p. 4

Privacy Rights in
LaVista p. 4

Nominate a Hero p. 5

Why Our Newsletter
Is Homely p. 5

Keep America Safe
and Free p. 6

Student Free Speech
Right Case p. 7

STD Forum in
Omaha p. 8

ACADEMY OF ROCK and ACLU NEBRASKA CELEBRATE FREEDOM

Our annual celebration of Banned Books Week took a different slant this year. Instead of just featuring works of literature that have been challenged or censored, we also focused on music that has been attacked.

In cooperation with the Northeast Family Center's Academy of Rock, ACLU, the Southeast Library Commission Committee on Intellectual Freedom and AFCON met in October at Duffy's Tavern in Lincoln to celebrate the freedom to enjoy the arts.

The Academy of Rock is an extracurricular activity that allows kids (elementary through high school) to learn how to play a musical instrument, practice public speaking and design their own performance styles.

With a list of frequently-banned rock songs chosen by the students themselves, almost a dozen bands performed while in between the songs, ACLU Nebraska Legal Director Amy Miller led a

discussion about the dangers of censorship. The music varied widely, from Bobby Darin's "Mack the Knife" to hard rock of the 80's like Dokken to contemporary bands such as System of a Down to classic songs from John Lennon.

"Some of the music has been challenged because someone thought it was inappropriate. Some was a victim of Clear Channel's censorship immediately after the 9-11 attacks. In the same way that some people attack books, some people attack music to try and reconstruct the world into just their vision," said Miller.

The event was attended by approximately 120 people, and while a lot more raucous than our usual gatherings, was great fun.



One of almost a dozen bands performs at Duffy's in Lincoln.



Academy of Rock director Jason Schmitt and ACLU Nebraska Legal Director Amy Miller.



ACLU Board Member Brenda Ealey sets up a display of frequently banned books.

When We Write a Letter, We REALLY Write a Letter.... To Every Jail, Every School, and Every City Clerk in Nebraska!

We do our advocacy on the macro level—that is, a single complaint we hear about can result in proactive work to stop a pattern from developing elsewhere. Here are examples from this summer:

A LETTER TO EVERY JAIL TO PROTECT WOMEN’S RIGHT TO CHOOSE

The Eighth Circuit, which is the federal circuit court that covers Nebraska, ruled this year that correctional centers must allow a woman to have an abortion. The case arose in Missouri, where the prison did not want to provide medical care, transportation to a clinic, or any assistance for a prisoner who found herself pregnant and wanted an abortion. The case, which was brought by the ACLU, resulted in a victory—the court ordered the prison to follow her wishes and provide concrete assistance to obtain the medical procedure.

Of course, a good court decision honoring a woman’s right to choose isn’t much use if the correctional facilities don’t know about the case. ACLU met in person with officials from the state Department of Corrections to put them on notice, but the bigger battle was the 69 county jails dotted across the state.

With the help of summer interns (see pictures, next page), we sent a letter to every single county correctional facility, advising them of the new court case and outlining their responsibilities in the event a pregnant inmate in their care wants an abortion.

A LETTER TO EVERY SINGLE COUNTY CLERK ABOUT MARRIAGE RIGHTS OF IMMIGRANTS

You’ll recall from previous issues of this newsletter that ACLU Nebraska heard reports that five counties were refusing marriage licenses to people unless they could prove they were legally present in the country or were citizens. Direct advocacy with those counties resulted in a concrete change in the policies of all five offending counties. But we worried—what is happening elsewhere in the state that we just haven’t heard about?

The assistance of summer interns made this project possible, too. They “googled” every single county to see if there was a website listing marriage license requirements. Then the counties with bad information got one letter, pointing out the actual state of the law which allows anyone (immigrant or not, legally present or not) to marry. The counties with no website or no information on their site got a separate letter that provided them with information as well. We then monitored every single county to ensure the websites were, in fact changed. And the happy ending—they have been!

A LETTER TO EVERY SINGLE PUBLIC SCHOOL DISTRICT ABOUT MILITARY RECRUITERS

Our office heard complaints from some parents who didn’t realize they had the right to opt out of their child’s confidential information from being provided to military recruiters. They didn’t know that the federal “No Child Left Behind Act” allowed them to say “no” to private information being handed over, and they were angry that the schools didn’t affirmatively inform them of that right.

More disturbingly, we heard from one parent in Lincoln who had in fact completed the opt out paperwork to keep his child’s private information out of the transfer to the military...yet the school somehow made a mistake and recruiters were given the information anyway.

Congress wrote the military recruiter laws in such a way that a private person can’t bring a lawsuit against the school (or the recruiter) for violation of privacy. With that route closed to us, we decided to do some public education instead.

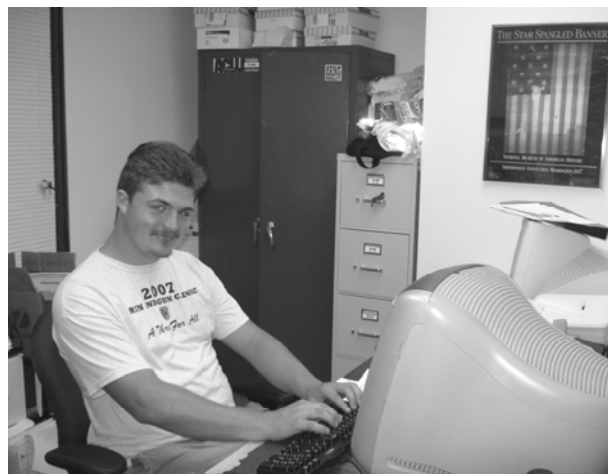
Summer interns obtained the addresses for every single public high school in Nebraska and we sent a letter to each one, outlining their legal obligation to protect children’s privacy rights. We also encouraged the schools to think broadly about the good policy of putting parents on notice, rather than assuming the parents know about the law.

Read a copy of our letter on our website: www.aclunebraska.org

Thank You, 2009 Summer Interns: We Couldn't Do It Without You!



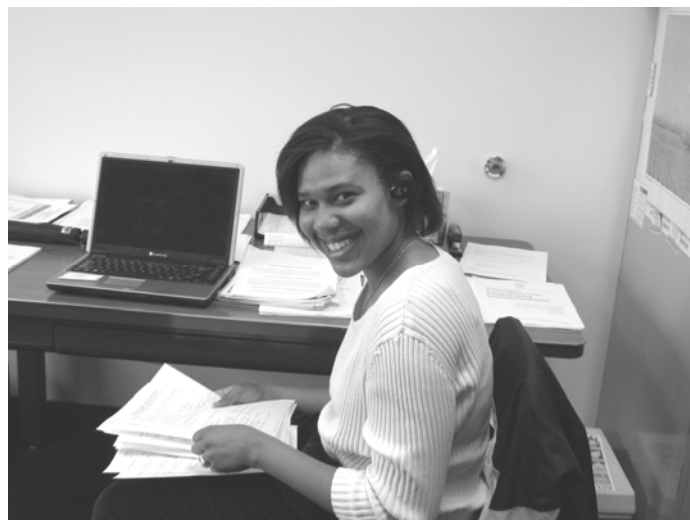
Law clerks, from left to right: Brandon Mehl (Creighton), Ryan McCord (Creighton) and April Kirkendall (University of Nebraska-Lincoln).



Jake McVeigh of Grinnell College.



Nate Panowicz of University of Nebraska-Kearney.



Courtney Robinson of University of Nebraska-Lincoln.

Sad News: Deaths of Two Civil Liberties Heroes

Lou Crompton and Jim Shelley

This year saw the passing of two civil liberties heroes who both contributed their gifts and passion to ACLU Nebraska.

Jim Shelley of Lincoln passed away this April. Jim and his wife Sue (who predeceased him in 1993) were both a regular presence at ACLU events and honored us with his ongoing dedication among his many other volunteer jobs.

Lou Crompton, who is survived by his partner of 42 years, Dr. Luis Diaz-Perdomo, had relocated from his longtime home in Lincoln to California. Lou's lifelong advocacy for GLBT students at the University of Nebraska-Lincoln made him a frequent partner with ACLU Nebraska.

ACLU Nebraska offers the families of both men our condolences.

KNOW YOUR RIGHTS WITH THE POLICE AND IMMIGRATION

ACLU Nebraska and its partners have distributed thousands of brochures that explain your rights with the police and with immigration agents. The brochures have been delivered to community centers, churches and immigration attorneys all across the state. When possible, we also follow up with an in-person training.

One such training is pictured below in Lexington. Over 100 new refugees attended the event, which was sponsored by ACLU Nebraska and the Somali Community Center of Lexington.

The brochures are currently available in English and Spanish. An Arabic version is being finalized as we go to print. If you have access to a place where these brochures would be helpful, we will provide you with as many as you need, free of charge. Just contact our office at (402) 476-8091 or by email info@aclunebraska.org.



New immigrants—primarily from Somalia but from elsewhere too—attend a training on “Know Your Rights with Police and Immigration Agents” in Lexington in October at an ACLU sponsored event.

VICTORY FOR PRIVACY RIGHTS IN LaVISTA

Well intentioned law makers sometimes forget the Constitution in the middle of their work. ACLU Nebraska’s job is to monitor and intervene when that happens, and we were victorious in reminding the LaVista City Council of the Bill of Rights recently.

LaVista was considering a new city ordinance to increase inspections of rental properties. The city was rightfully concerned about the health and welfare of tenants whose landlords did not meet health and building codes.

The problem was that LaVista forgot about the Fourth Amendment, which protects us from searches by the government without a warrant. The proposed ordinance would have city employees barging into private residences in order to inspect them—and

didn’t provide any advance notice or protection to the tenants. “These are the very same people the city wants to protect from housing code violations, but that doesn’t mean an apartment dweller must be exposed to a constitutional violation in exchange,” said ACLU Nebraska Legal Director Amy Miller.

Negotiations with the city provided LaVista with a model for balancing the privacy rights of tenants while allowing the city to inspect. The final ordinance with the ACLU-suggested changes passed in October. It now requires that prior to inspection, the tenants will receive written notice from the city. Tenants have the right to refuse entry and demand a warrant from a judge.

CALLING FOR NOMINATIONS: CIVIL LIBERTIES HEROES

ACLU Nebraska's 2010 annual dinner will be held in the spring (see box to the right for details). As always, we will honor civil liberties heroes at that time. There are three awards, which each honor a slightly different category of hero:

Roger Baldwin Civil Libertarian of the Year Award: This award goes to someone who has worked WITH our organization to protect civil liberties in the last year.

Defender of the Bill of Rights: This award goes to someone who has worked to protect civil liberties in the last year, but not necessarily with the ACLU.

Robert Spire Founders Service Award: This award goes to someone who has worked closely with ACLU for a sustained period of time.

If you have a nomination for any of these awards, please submit to the Board of Directors by either writing or emailing a brief letter describing the person and the rationale for your nomination. Nominations should be submitted by December 16th to: ACLU Nebraska Board, 941 O Street, #706, Lincoln NE 68508 or info@aclunebraska.org (attention: Board of Directors).

SAVE THE DATE ANNUAL DINNER 2010

When: April 24, 2010

Where: Omaha, Cascio's Steakhouse.

Who: Keynote speaker is Ellery Schempp, physicist and the plaintiff from the landmark US Supreme Court case *Abington School District v. Schempp*, which struck down Bible readings in public schools.

Invitations will be mailed in the spring—but get this on your calendar now!

Yeah, We Know the Newsletter is Homely....And Here's Why:

This newsletter isn't a slick piece of advertising. We know that. It's a little homemade, a little clumsy, because we're a small staff and we trim the budget as close as possible, including doing the newsletter in-house. We use the money you donate for more substantive things than just making ourselves look good. And that's at any amount of giving—just check this out:

How much can we accomplish with 44 cents? See page 2—we can write a letter to the school, jail, or county clerk in your own community to ensure that students' privacy rights, women's reproductive freedom, and the right to marry are all protected.

What can we pull off for \$200? See page 4—we can hold a Know Your Rights training for over 100 new immigrants, just like we did in Lexington.

What will \$350 do for the ACLU? See page 7—that is the exact amount we need to cover the filing fee for a federal rights lawsuit such as the "Julius RIP" shirt case.

How much will \$500 buy? See page 3—we can subsidize a law student to help our Legal Director do research and client interviews.

There are many ways you can donate to ACLU. You can enclose a tax-deductible donation in the envelope in this newsletter. Every dime you donate stays in the state to help us work on Nebraska civil liberties. Or you can give through a workplace giving program such as Community Services Fund. Or plan ahead and make ACLU Nebraska a beneficiary in your will to ensure civil liberties will go on being protected in the future. (If you want to learn more about planned giving, please contact our office on 402-476-8091 or email info@aclunebraska.org and we will send you additional information.)

When you donate to ACLU Nebraska, you know that you'll keep seeing this homemade little newsletter, filled with news of the professional-level victories we've accomplished with your generous help.

KEEP AMERICA = SAFE & FREE

Ask the experts: Attorney Ben Wizner of the ACLU's National Security Project explains why accountability for torture and other abuses is necessary in order to restore the rule of law and move the country forward.

1. Why does ACLU believe President Obama should release government documents and photos about torture?

President Obama inadvertently gave us the best explanation when he announced that he had changed his mind about releasing photographs of abuse. The President said that these were “rare and isolated instances” and that where appropriate, the perpetrators had been punished. Both of those statements are untrue. We know that the abuses that were documented at Abu Ghraib were routine—not an aberration. They took place at facilities around the world and not just at one prison in Iraq. And we know that the highest level official to face prosecution was a lieutenant colonel, even though the abusive interrogation tactics were approved at the highest levels of Department of Defense and civilian leadership.

2. The people in the Bush administration who condoned torture are no longer in charge. Shouldn't we just forget about it and move on?

President Obama has suggested that we should look forward without looking back. But in a country governed by the rule of law, that's a false choice. Enforcing the law means looking backward in order to ensure that abuses are not repeated. This is particularly important given that there is still an extraordinary debate going on in this country about the legality, the efficacy and the morality of torture.

There are loud voices in the political establishment who are still defending what happened during the last 8 years, people who have made clear that if they are restored to power, they will restore these policies. And in that context, to say that we should just move on is to put the country at risk of returning to an era of abuse that brought shame to our country internationally.

3. Isn't pressing for accountability a distraction, one that saps resources that need to be devoted elsewhere?

That's an argument that could be made about enforcing the law in any context. What we hear over and over again is that to enforce the law against political leaders from the prior administration would be to criminalize policy differences. Precisely the opposite is the case. The danger of politicization comes not from calls to enforce the law, but from calls to exempt the political class from laws that apply to everyone else.

That the infliction of barbaric cruelty on prisoners was purportedly “authorized by Justice Department lawyers” changes nothing.

4. What is to be gained from a formal investigation into abuses of power by the Bush Administration?

We truly are in a state of transitional justice. We had an administration that believed that because we were in a war that would take place everywhere and forever, no statute could prevent the President from acting as he saw fit. To truly return to the rule of law, we need to ensure that there are consequences for that kind of extraordinary law breaking.

There's another reason, too. To date, no victim of the Bush Administration's torture policies has yet had his day in court. We at the ACLU are obviously working in various lawsuits to ensure that these victims can be heard, and that they can receive justice.

5. What role should Congress play in uncovering the truth?

Congress has a very important role. Certainly there are important investigations underway in Congress right now into both the Defense Department's and the CIA's torture policies. It's also possible that Congress itself was complicit in permitting some of these torture policies to go on without any real oversight. So Congress can't be the sole investigator here.

(Continued, next page)

Student Free Speech Suit Filed Against Millard South High School

In August 2008, Millard South High School suspended between 20 and 30 students for wearing t-shirts with the phrase "Julius RIP." The shirts were created by a friend of Julius who wanted to help raise money for the young man's funeral after Julius was shot by gang members over Julius' refusal to join their gang. Several parents complained to ACLU, and we issued a letter demanding the school dismiss the suspensions and allow the shirts to be worn in the future.

Negotiations with the school have failed, so one family has agreed to step forward and be clients in a lawsuit challenging the limits of school power to censor student speech.

Jeanne Kuhr has three children who were affected by the Millard suspensions. Her oldest son, Dan helped design the shirts, which read "Julius RIP" on the front with a picture of Julius in his football uniform and read "Only God Can Judge Me Now" on the back.

Jeanne helped her son organize other ways to raise money for Julius' funeral, including a fish feed, a car wash, and an auction of items donated by Julius' friends.



Jeanne Kuhr with her children: Cassie, Dan holding the memorial shirt, and Nick

Volunteer Omaha attorney W. Craig Howell filed the lawsuit with ACLU Nebraska against Millard Schools in September. The case is in federal court and we are now awaiting a response from the school.

(Keep America Safe and Free, continued from previous page)

We have called for an independent prosecutor and for a joint committee of Congress modeled on the Church Committee, which investigated abuses of law and power by the CIA and the FBI that came to light as a result of the Watergate scandal. Such a committee should do a comprehensive review of the administration's torture policies. That would not only add to the historical record but help achieve a clean break with the regime that just left office.

6. What can ACLU members and our allies do to encourage Congress to get to it and stay focused?

This is a very important question. The public at large and ACLU members in particular must keep the pressure on our members of Congress not to let this issue go. It's the tendency of all administrations to try to avoid politically complicated questions and to stick with more comfortable issues. But ACLU members above all have to make clear that it's unacceptable for Congress to sweep these crimes under the rug and to pretend that they never happened.

It's absolutely insufficient that we now have executive orders that ban torture and close CIA prisons. Executive orders can be shredded and rewritten by the next president. This is not about the President, it's about the presidency.

7. What are the ACLU's top three recommendations for restoring accountability in government?

We must investigate the Bush Administration's torture policies and enforce the law wherever the law leads. We should not use flawed military commissions which have no legitimacy in eyes of the world to prosecute people who we are holding. And perhaps most critically, we cannot recreate the Guantanamo detention regime here in the United States by enacting a statute that would permit the indefinite detention of terrorism suspects without trial.

Ben Wizner is an attorney with the ACLU's National Security Project.



Non-Profit Org
US Postage
PAID
Lincoln, NE
Permit # 410

ACLU Nebraska
941 'O' Street #706
Lincoln, NE 68508
(402) 476-8091
www.aclunebraska.org

“JULIUS RIP” SUIT FAMILY TO BE HONORED BY AFCON

The Academic Freedom Coalition of Nebraska (AFCON) has selected ACLU clients Jeanne Kuhr and her children Cassie, Dan and Nick to be honored as free speech heroes at their fall banquet. (See story of their battle for students' free speech rights in this newsletter, page 7.)

The banquet will take place November 14th at the Holiday Inn located at 72nd and Grover Streets, Omaha.

The keynote speaker is Dr. William Ayres. His topic is “The Right to Think At All: Academic Freedom and Freedom of Speech in Troubled Times.”

While registration is already closed for the event, you can contact AFCON to learn more by visiting their website at www.nebafcon.org.

JOIN US—Community Forums on the STD Rates in Omaha

ACLU Nebraska and the Pro-Choice Coalition have been investigating how reproductive freedom information could help stop the tragically high sexually transmitted disease (STD) rate in Omaha. Omaha ranks first in the nation for Chlamydia and Gonorrhea. Two public forums will be held for your thoughts and solutions:

NOV 16th: Gethesemene Missionary Baptist Church, 4102 Florence Blvd., Omaha from 6-8pm.

NOV 19th: Red Cross, 80th and Center Streets, Omaha from 6-8pm.

The forums will include an opportunity for free STD testing, conducted by the Douglas County Health Department.

Get the Facts, Get Informed, Get Tested!