

# CIVIL LIBERTIES NEWS

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**ACLU**  
Minnesota

## ACLU HELPING THE WILWAL FAMILY FIND JUSTICE AFTER BORDER DETENTION



In March 2015, Sagal Abdigani and her husband, Abdisalam Wilwal, were traveling home to Minnesota after visiting family in Canada. Their four children, ages five, six, eight, and 14, accompanied them.

It was a trip they had made frequently, without trouble. But on that spring day, as they were attempting to reenter the United States at the North Dakota border, the Wilwal family experienced what they described as a nightmare.

### **“Maybe they’ll kill us after sunset.”**

Their car was surrounded by Customs and Border Protection (CBP) officers. Abdisalam was handcuffed in front of his wife and children, separated from them without explanation. They were placed in detention for over 10 hours.

Abdisalam remained handcuffed for

the duration of the detention. His pleas for food and water were ignored, and he passed out to the point of needing medical attention.

Sagal and the children were also detained. Sagal was denied food and had to beg repeatedly before food was provided to her four children.

Sagal sat in horror as her eight-year-old daughter said, “Maybe they’ll kill us after sunset.” No mother should have to hear her child utter those words.

Meanwhile, neither Sagal nor her husband were given any information about why they were being kept or for how long they would be detained. CBP questioned Abdisalam about his religion and travels.

Abdisalam and Sagal are both U.S. citizens. Somehow, Abdisalam’s name ended up on the government’s terrorism-related watchlist.

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## MAJOR VICTORY IN STATE V. HENSEL FOR FREE SPEECH

In 2013, local activist Robin Hensel attended her local city council meeting, as usual, in Little Falls, Minnesota. She sat at the front of the room, close to the dais, where she had seen people sit in prior weeks.

She was asked to move back, without reason. She refused. And then she was arrested.

City council members claimed that her refusal to move violated Minnesota’s disorderly conduct statute, which prohibits the disruption of an assembly or meeting.

Robin believed this broad interpretation of the statute was unconstitutional.

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# LOCAL ELECTIONS MATTER

Former House Speaker Tip O’Neill, Jr. was fond of saying, “all politics is local”. Let’s flip that aphorism for today’s reality, “local politics has never been more important” to the supporters of the principles of the ACLU.

With President Trump’s sustained attacks on civil rights and civil liberties, a Department of Justice that supports mass incarceration, and Congress’ unwillingness to curb the President’s worst threats to our nation’s fundamental values, our state and local elected officials may be our best route to protect our civil liberties and promote the ACLU’s values. By way of example, if you care about racial disparities in the criminal justice system and you think we need to end mass incarceration and mass punishment, you should pay special attention to county attorney and local sheriff elections.

It is important to understand that, as a county’s top prosecutor, the county attorney exercises tremendous discretion on whether and whom to charge for alleged crimes, the types of punishment to seek, and what kinds of plea bargains to offer. County attorneys and the prosecutors who work for them are essential gatekeepers in our criminal justice system, playing a critical role through their prosecutorial decisions in creating the racial disparities in incarceration rates and prison populations that we have here in Minnesota.

Local sheriffs are responsible for administering local jails and are relied upon more and more to provide law enforcement services to local

communities, which means the policies of local sheriffs have a significant impact on arrest rates and jail populations. In addition, the Trump administration is demanding that local sheriffs violate the Constitution by holding without authority persons who Immigration and Customs Enforcement (ICE) wants to scoop up. The actions of your local sheriff can either uphold and respect the Constitution or violate it.

What is the intersection between the ACLU and the local elections of county attorneys and sheriffs? Start with the values that the ACLU defends: the end of mass incarceration; the end of racial disparities in arrests, prosecutions and sentencing; and the end of unjust bail systems. In each case, your local county attorney, sheriff, and state or municipal representative plays a crucial role in creating the problem or providing the solution. As a voter, you can make a difference on these issues by asking candidates where they stand on these vital matters and giving your votes to the candidates who share your values and the values of the ACLU.

It is vital to ask these critical questions of state and local candidates and even more crucial to show up at the polls for every election. It is well documented that voter turnout and participation falls off in non-presidential elections.

If you want to implement the values of the ACLU, educate yourself on the state and local candidates, organize and work on behalf of candidates who will carry out the necessary reforms, and cast your vote for candidates who will uphold civil liberties and racial justice. ■

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# PROTECTING DACA RECIPIENTS AND IMMIGRANT STUDENTS UNDER TRUMP

September is one of my favorite months of the year. The hot, humid weather turns mild and the trees begin to show their brilliant fall colors. For students, the beginning of each new school year is a time of new beginnings, new friends, new opportunities, and new hope. This year, as families across the nation marked the beginning of the new school year, President Trump threw the lives of 800,000 young people and their families into complete chaos and turmoil.

In early September, the Trump administration announced the termination of the Deferred Action for Childhood Arrivals (DACA) Program. The DACA program was intended to protect young immigrants (also known as “Dreamers”) who came to this country as children and who know the United States as their only home. Since the time the program was created five years ago, it has been a critical lifeline for young immigrants. In 2012, the federal government made a deal with immigrant youth that as long as they pass a criminal background check, they can live, study, and work here.

In response, nearly 800,000 young people came out of the shadows and accepted the government’s offer in good faith and worked hard to build their lives here.

Here in Minnesota, nearly 6,300 people have obtained DACA status. They are our family, friends, and neighbors. They are also our doctors, soldiers, and students. The fate of these young people now lies with Congress. For years, Congress has considered bills that would protect Dreamers. But they have thus far failed to act. Ending DACA without having a legislative fix in place was cruel and inhumane. What’s more, this action fits into a larger pattern that illustrates the Trump administration’s malevolence towards immigrants and refugees.

Time and again, Trump has doubled down in his attacks against some of the most

vulnerable people. First, he implemented a draconian Muslim travel ban, which he modified in a futile attempt to protect it from being thrown out in court. And he has ramped up immigration enforcement.

ICE’s new enforcement priorities make EVERY undocumented immigrant (including Dreamers if they lose their DACA protections) a priority for removal. And President Trump’s law-and-order agenda took a back seat this summer when he pardoned Joe Arpaio, the Arizona sheriff who made a name for himself through his aggressive and unconstitutional enforcement of immigration law. Arpaio was found guilty of criminal contempt for refusing to follow Federal Court orders.

The United States has always been a beacon of hope for people seeking a better life. And with few exceptions (i.e. voting), constitutional rights apply to all people in this country, regardless of whether they are in this country with or without authorization. As an organization dedicated to protecting constitutional rights, the ACLU is deeply committed to protecting the constitutional rights of all immigrants.

We have been fighting against arbitrary detention of immigrants who are in removal proceedings and our Greater Minnesota Racial Justice Project has been working tirelessly to make sure that immigrant communities know and understand their rights and can get connected with attorneys who can help them with their immigration issues.

Years of courage and organizing won DACA. Ending it was another cruelty inflicted on immigrant communities by the Trump administration. But that cruelty has deepened our resolve, and the resolve of Dreamers, their families, friends, and supporters to fight even harder to uphold our country’s best traditions. ■

# ICE WILL NOT BREAK ME, WILL NOT KEEP ME FROM MY FAMILY



*The following piece was written by Sameth Nhean, one of the “Minnesota Eight,” a group of Cambodian men unlawfully detained by Immigration Customs and Enforcement (ICE). The American Civil Liberties Union of Minnesota, along with his attorneys Danielle Robinson Briand and Mai N. Moua, fought for his release. He was reunited with his family on August 8, 2017, after spending a total of 484 days in detention.*

Nearly a year ago, I walked into what I thought was a routine check-in with immigration. My wife and children came with me, we were going to go to the Minnesota State Fair afterwards. But when two Immigration and Customs Enforcement (ICE) agents came and took me aside, I knew what was next. My wife and my kids stared at me through the glass, speechless. No words, just tears. I looked back at them, just as hopeless as they were.

I would not return home to them for another 346 days.

I was born in a refugee camp in Thailand after my family fled Cambodia. My family came to the U.S. when I was just three-years-old and this country is the only home I’ve ever known. We came here with next to nothing—we started in poverty. It was hard, but that’s why we immigrated. For the American dream. There was a lot of trauma in my family and I carried some of it into adulthood. I ended up making some poor choices and around 15 years ago I committed a crime. I owned up to my behavior, served my sentence, and was law abiding ever since. Everything changed for

me when I met my wife—I got a job, bought a house, and started a family. I have three children: Arson, age 11, and my two beautiful daughters, Cianna, age 14, and Nautica, age 4. I worked for 11 years at the same company, because I wanted to provide and give my children the kind of life that I never had. I learned, grew from my mistakes, and built a life here.

But in 2010, ICE hunted me down. Before that, I had no idea what ICE was. Agents showed up at my house and tore me away from my family. That time, they detained me for 138 days. When they couldn’t deport me to either Cambodia or Thailand, they finally had to release me.

After that, everything changed for me. When I heard the word “deportation,” everything just crumbled. I lived every day with the constant fear that I was going to be separated from my family.

***The government doesn’t tell the public what they do to immigrants—the kind of abuse we go through.***

And then, in August 2016, ICE again, for no reason, separated me from my family. This time, they refused to release me for nearly a year.

The government doesn’t tell the public what they do to immigrants—the kind of abuse we go through. People don’t understand that.

There were eight of us they took, all from Minnesota, all of Cambodian descent. We were shackled. They transported us from state to state—Texas, California, Louisiana, and Arizona. We would go from plane to bus, driving for hours. Then we would sit in the holding tank. It could take a long time for them to process us—sometimes over 14 hours. The whole time our ankles were shackled, hands still cuffed, and clothes soiled with sweat.

*continued on next page...*

## ICE WILL NOT BREAK ME

CONT'D PAGE 4



I was treated like I wasn't human. How do you keep it together under constant mistreatment, degradation, and isolation?

The overwhelming feeling of love from family, friends, and strangers who heard about our situation—that's what gave me the strength to keep going. I told myself: all you have to do is hold it together. But even that was hard.

I have to believe that if people knew the truth about what ICE is doing, they would fight back. But ICE doesn't want people in the U.S. to know how they treat immigrants.

Since the first time I was detained in 2010, my life and my family has been on hold. That's seven years of my life, seven years of my children's lives. I lost my job and we lost our home. We are in debt. My children's grades have slipped in school, and they've been suffering from grief and anxiety from this experience.

I have to start all over, but I feel lucky to still have my wife and my children. ICE is trying to overturn the immigration case that I won in July—but I will continue to fight. Not for me, but for my family. ■

*Sameth Nhean's story was originally shared online. It has been edited for length. You can read the full article by visiting our website at [aclu-mn.org/news](http://aclu-mn.org/news).*

## MAJOR VICTORY

CONT'D PAGE 1

The ACLU of Minnesota agreed and filed a brief in the case, which went to the Minnesota Supreme Court.

Minnesota Stat. § 609.72, subd. 1(2), as written, reads:

*Whoever does any of the following in a public or private place, including on a school bus, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor.*

The statute also states that any action that “disturbs an assembly or meeting, not unlawful in its character...” also meets criteria for disorderly conduct.

In 2016, the Minnesota Court of Appeals ruled that Robin did, in fact, violate the statute by refusing to move her chair. The decision was a serious blow to advocates, including the ACLU of Minnesota, who believe constituents have the right to engage directly with their elected officials.

Robin's case highlights how the vague restrictions in the statute can be easily interpreted to silence and censor the public. Giving elected officials the power to criminalize any speech or behavior they disagree with could have a chilling impact on the public's ability to critique and express dissent.

In September, the Minnesota Supreme Court agreed and ruled the statute as overly broad, and therefore unconstitutional. This decision overturns the Court of Appeals ruling.

In the opinion, Justice David Stras cited other examples that could violate the statute, including speech criticizing political and racial groups, clothing with offensive language, and burning of the American flag. “In addition to being disruptive of gatherings of all kinds, all of these actions share a common quality: they are protected under the First Amendment.”

How this ruling will be interpreted, moving forward, is uncertain. For the time being, at least, it upholds the basic First Amendment rights of Minnesotans. ■



The government refused to provide Abdisalam with any information about why his name appeared on the list or how to get it removed.

Sagal and Abdisalam are originally from Somalia, which they fled due to the civil war in the 1990s. They met in the U.S. after each immigrated here in 2000 and eventually became U.S. citizens and married. They live in a Minneapolis suburb with their four children peacefully. They never thought they would be treated like prisoners in their own country.

CBP violated the Wilwal family's fourth amendment right, which guarantees freedom from unreasonable search and seizure.

The ACLU is suing the Department of Homeland Security, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, the Federal Bureau of Investigation, and the Terrorist Screening Center.

CBP had no probable cause for detaining Abdisalam and his family. Additionally, the lawsuit challenges the lack of meaningful process for Abdisalam to contest his placement on the watchlist to begin with.

CBP's treatment of Sagal, Abdisalam, and their four children is not just abhorrent, it's unconstitutional. Our government should not place individuals on a secret blacklist, only for them to be harassed and to have their civil liberties violated. Sagal and Abdisalam deserve equal rights. They deserve due process. They deserve justice. ■

## TRANSGENDER MILITARY BAN HARMFUL FOR ALL

In July, President Trump announced in three tweets his intentions to ban transgender people from serving in the military. Despite widespread dissent, in August he set forth to turn his discriminatory social media posts into policy.

The announcement was a surprise to Congress members, military experts, and the Secretary of Defense. Even the Pentagon's top military officer has advised Trump not to move forward with the ban. A 2014 study by the Williams Institute estimated that over 15,000 transgender people currently serve in the military, making it the largest employer of transgender people in the United States.

Minnesotan Nicole Vanderheiden, former Staff Sergeant of the U.S. Air Force and Iraq war veteran, says Trump's tweets and statements have a negative and pervasive impact against all our communities, not just transgender military members.

"Trump not only libels our honored heroes, but, just as harmful or more so, he undercuts the futures of our nation's transgender youth," she wrote in an ACLU-featured article. "All of our youth, cisgender and transgender alike, need to hear they are capable of great things and they can be part of something bigger than themselves."

Nicole serves on the board of Transforming Families MN. She says that Trump's words and actions not only deny transgender people from fully participating in the military, but deny every single person in this country from benefiting from the rich and vital contributions that transgender people bring to our communities.

Already the national ACLU has filed a lawsuit, along with Covington & Burling LLP, against the Trump administration. The lawsuit challenges the President's directive to ban service members, prohibit future enlistment, as well as deny medically necessary health care for transgender people.

Even in absence of explicit policy, service members across the U.S. began disclosing discrimination following the tweets. The ACLU argues that the ban violates the constitutional guarantees of equal protection and due process by singling out transgender individuals. ■

# 2017 EARL LARSON AWARD



For twenty years, Charles “Chuck” Samuelson led the ACLU of Minnesota under his strategic vision. The former executive director graduated from Syracuse University with a BA in medieval history and a minor in political science. In 2014, Hamline University presented Charles with an Honorary Doctor of Law degree.

We are honored to announce Chuck as this year’s prestigious Earl Larson Award recipient. In his 20-year tenure at the ACLU, Chuck grew the organization from three staff to nine. He initiated programs like the Greater Minnesota Racial Justice Program (GMRJP), which in the past worked in Bemidji to address gross injustices faced by Native Americans in the criminal justice system. Currently, the GMRJP operates out of Mankato and focuses on the racial injustices faced by immigrant community members.

Also under his leadership, the ACLU-MN moved forward legislative victories, including major civil asset forfeiture reform and a bill rejecting Real ID. As executive director, Chuck oversaw landmark legal cases, including overturning Minnesota’s sodomy law, ensuring equal rights for LGBTQ students, and requiring the district to better protect student privacy rights.

Join us in celebrating and honoring the accomplishments of Chuck Samuelson at this year’s Earl Larson Award ceremony. ■

**Thursday, November 30, 2017**

Renaissance Minneapolis Hotel, The Depot  
225 South 3rd Ave. Minneapolis

5:30 p.m. Reception

6:30 p.m. Award Presentation

Tickets cost \$100, \$50 (*those in public/social service*)

Purchase tickets online at [aclu-mn.org](http://aclu-mn.org) or by contacting Molly at 651.529.1696; [mmiller@aclu-mn.org](mailto:mmiller@aclu-mn.org).

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