

# CIVIL LIBERTIES NEWS

Summer 2015  
Vol 45/Issue 2



## ACLU Finds Severe Racial Disparities in Low-Level Arrests by Minneapolis Police

Being Black in America today is rough. Turns out, being Black in Minneapolis doesn't make life any easier. Often appearing on "Top 10 Best Places to Live" lists, Minneapolis is billed as a progressive, accessible city, where residents can work, raise families, and generally live out their own American dream. But if you are a person of color or of a lower socioeconomic status (or, even worse, both) living in Minneapolis, the numbers tell a different tale – indeed, a tale of two cities.

Earlier this spring, the ACLU-MN along with the ACLU's Criminal Justice Program released a report, "Picking Up the Pieces - Policing in America, A Minneapolis Case Study". It is an in-depth look at policing in Minneapolis that explores the who, what,

when, where, why and how low-level arrests occurred in Minneapolis during a 33-month time span. The ACLU analyzed data on low-level arrests made by the Minneapolis Police Department between January 2012 and September 2014. To be clear, low-level offenses are those that carry a maximum penalty of one year in jail, a maximum fine of \$3,000, or both, if convicted. Many of these offenses are punished by only a fine.

Results of the ACLU data crunch are staggering, and they make it clear that the most vulnerable populations

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## 2015 Legislative Session -- The Highs and the Lows

We made progress on much of our legislative agenda during the 2015 session. Unfortunately, the Legislature also missed several opportunities to enact new laws to protect civil liberties this year. While the session had its share of disappoints, here a few key highlights:

### Automatic License Plate Reader (ALPR) Regulation:

After years of debate, the Legislature passed a bill creating important restrictions to prevent ALPRs from infringing on civil liberties. Police use ALPR cameras that capture images of license plate numbers, allowing them to monitor and track the movement of vehicles. For years, the ACLU-MN has argued against the retention of "non-hit" license plate data on innocent individuals.

The new law's 60-day retention period represents a compromise between privacy advocates and law enforcement's request for a 180-day retention period. The new law also provides many important protections

requested by the ACLU-MN, such as: (1) classifying ALPR data as private; (2) requiring a warrant to use ALPRs to monitor or track an individual criminal suspect; (3) limiting law enforcement access and sharing; and (4) establishing public accountability measures.

**Religious Objection to Autopsy:** The new law recognizes a limited constitutional right to object to an autopsy due to sincerely held religious beliefs.

**Anti-SLAPP Protection:** Anti-SLAPP (Strategic Litigation Against Public Participation) laws prevent lawsuits from being used to silence an individual's free speech rights. The new law gives people stronger protections against retaliatory lawsuits for making good faith reports of crime to the police.

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# Welcome to the ACLU-MN



**Bill Pentelovitch**  
President

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A few months ago, I was sitting in my office minding my own business when I got a call from Chuck Samuelson, the ACLU-MN's tireless executive director. As a long-time chair of the ACLU-MN's legal committee, such calls were not unusual. But this call was different. It was to tell me that our president-elect Sam Heins was not only declining to serve as president, but was also resigning from the ACLU-MN board in order to take up the position as U.S. Ambassador to Norway at President Obama's request. I was surprised when Chuck told me that a number of people wanted me to step into the sudden void that would be left when our wonderful president Cris Stainbrook's term ended, despite the fact that I'd never been president of anything—even my own household. I was formally elected to the position at the April 28 board meeting. After due process, I agreed to take the job. That is why you will be receiving these messages from me in your newsletter for the next two years. I'll try not to make them boring.

To begin with, I'm told by the ACLU-MN staff that you would probably like to know a little about me. So, here goes: I am a native of St. Paul, where I grew up. After graduating from the University of Minnesota and the University of Chicago Law School, I became a practicing trial lawyer specializing in business disputes at Maslon LLP, where I have now practiced for 41 years. I live with my wife, who is a family physician in Minneapolis, and with two of our children, who will be starting middle school and high school in the fall. Our three adult children, three children-in-law, and one grandson, all live in other states. Three of our

older children are lawyers. As you can imagine, there are never clear winners in family debates.

I have handled many cases as a volunteer lawyer for the ACLU-MN over the years. Some of these include representation of protesters in negotiating with civic authorities as to where protests would be allowed during the 2008 Republican Convention in St. Paul; and representation of the League of Women Voters, Common Cause, and the ACLU in the challenge to the ballot question for the proposed constitutional amendment to require Voter ID in 2012. I have served on the ACLU-MN board under three presidents, Wally Hilke, Vance Opperman, and Cris Stainbrook, all of whom I have turned to for advice as I embark on this adventure. I am grateful for their past leadership and their present guidance.

I have set three over-arching goals for my two-year-term as president. Firstly, I want our excellent volunteer board to become even more engaged in the important work that ACLU-MN does every day for the people of Minnesota. Secondly, I want to grow our office and take on more of the civil liberties challenges confronting Minnesotans. Finally, I want the ACLU-MN to continue to have a strong, positive impact on civil liberties in this state through education, legislative initiatives, and, when necessary, in the courts.

I need help from all of you as I begin my presidency. Please let me know how you think ACLU-MN can serve the people in our state better, and let me know what you are willing to do to help as a volunteer or financially. Join in; it will be a fun ride! ■



**Charles Samuelson**  
Executive Director

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## Picking Up The Pieces

At the end of May 2015, the ACLU-MN and the ACLU National office released a long-awaited study of Minneapolis Police Department arrests for a 33-month-period from 2012 to 2014. This followed a national ACLU study that documented racial disparities in low level marijuana arrests which showed that Minneapolis had the third greatest disparities in low level marijuana arrests of any city in the country. You can find these studies at: [www.aclu.org/minneapolis](http://www.aclu.org/minneapolis)

If you read the studies, you would know that the disproportionate policing of people of color is not a recent problem. Minnesota is a state with a long history of racial disparities. In the 1990's the ACLU pursued a nationwide effort to reduce these disparities. Our focus then was on ways to educate the general population about racial disparities. We worked on a bill that required police to report on the race of the drivers they stopped. To no one's surprise, people of color were stopped at rates far greater than were whites. In addition, when people

of color were stopped, they were treated differently (searched more often, passengers searched more often, etc...).

Finally, Minnesota made the list as the state whose prisons had the greatest racial disparities in its prison population. This is still the situation now.

The ACLU-MN has worked for racial justice and equal treatment under the law for more than two decades. While we have made progress, particularly lately, we must all help continue the work. This work encompasses a great deal of related topics. For example, you can call your state Representative or Senator and ask them to support voting rights for felons who have been released from jail. We would also appreciate help calling city and county legislatures to request that they vote to establish civilian review boards.

Together we can change the way our government treats people equally. ■

Published quarterly, in winter, spring, summer and fall.

Publication Office:  
2300 Myrtle Ave, Suite 180  
St. Paul, MN 55114

Civil Liberties News  
(USPS # 114-860)

Subscription by Membership Only  
PERIODICAL postage paid at St. Paul, MN, and additional mailing offices.

POSTMASTER: Send address changes to Civil Liberties News, 2300 Myrtle Ave, Suite 180  
St. Paul, MN 55114

# Minneapolis repeals lurking and spitting laws

Great news out of Minneapolis, you can no longer go to jail just for spitting on the street! Yes, this was actually a codified ordinance along with lurking. Excitingly, the Minneapolis City Council voted to repeal both the spitting and lurking ordinances on June 5.

While the spitting law was rarely enforced, lurking was enforced more often, as around 200 tickets have been issued since 2012.

Even though ordinances such as these seem like minor offenses with minor punishments, their impacts are undeniable. Truth – a man once spent 90 days in the workhouse for spitting! Communities of color in Minneapolis have often become criminalized as a result of normal, human behavior and these two ordinances are just examples of a larger trend.

In case you are wondering what the heck lurking even is, the lurking ordinance stated: “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”. That is all the context that was offered in the language, which by default means that police were supposed to determine what someone’s “intent” was just by looking at them. Judging based solely on appearance is incredibly problematic because of so many reasons- including but not limited to the broad license this clause provides to police officers. We know from the report we released in May, “*Picking Up the Pieces*”, that Blacks and Native Americans are over policed for low-level crimes - lurking was no different. The majority of people arrested for lurking in the last few years were Black, even though Blacks make up only 19% of Minneapolis’ population.

The ACLU-MN worked on this repeal along with our allies at Neighborhoods Organizing for Change, Black Lives Matter, NAACP and the Coalition for Critical Change among others. The repeal of these two ordinances is a big step in the right direction, but repealing ordinances alone won’t solve all of the

problems that we know still plague the fair city of Minneapolis.

Council members Cam Gordon and Blong Yang were at the helm of the repeal effort. With their leadership the ordinances were repealed by a 12 to 1 vote. Clearly the vast majority of

the City Council recognized the importance in making our criminal justice system a little more equitable, and we are confident that the City Council will progress on our other recommendations.

Council President Barb Johnson was the only member to vote against the repeal, though not before providing a source of great amusement to the listening crowd when she accidentally voted in favor of the repeal, only to retract her slip-up amongst loud laughter. President Johnson argued extensively and vehemently, that out of concern for problems of crime in her ward, she wished the lurking law to remain in place. She then expressed her fear that the repeal of the two ordinances being discussed was only the first step, employing slippery slope rhetoric that would result in Minneapolis being less safe.

Council President Johnson is right about one thing, at least. She is correct in saying that this is only the first step. The repeal of the spitting and lurking ordinances is a small victory in a larger struggle against a policing system which disproportionately criminalizes people of color. We know that it is possible to make Minneapolis better for everyone, and if we all work together we can make it happen! ■



*Supporters of the repeals pack City Hall*

# Minneapolis Policing Study continued from front page

living in Minneapolis are being policed differently than the more fortunate, resulting in a divided Minneapolis. According to the data, Black people in Minneapolis are 8.7 times more likely to be arrested for a low-level offense than a white person. Native Americans are 8.6 times more likely to be arrested. And it doesn't end there.



Youth and homeless populations bear the brunt of unequal policing as well. Black and Native American youth are respectively 5.8 times and 7.7 times more likely to be arrested for a low-level offense than white youth. Furthermore, 40 percent of all youth arrests in Minneapolis are for curfew violations. Instead of pushing kids into the jaws of the criminal justice system, law enforcement should guarantee their safety by bringing them home to their parents or to another safe place.

These arrests, and their attendant racial disparities, are not inevitable. Rather, they appear to be the product of broken police practices. Whether caused by implicit or explicit bias, the result is the same. Communities of color in Minneapolis are being pushed further to the margins.

Sadly, any entry point into the American criminal justice system today is a pathway to a more difficult life. Those arrested bear the punishments directly imposed, as well as collateral consequences that

can snowball and follow them around, sometimes for life. The financial burdens of fines and fees, loss of employment, ineligibility for certain jobs, the

potential housing and financial aid penalties, the social stigma, and the stress of navigating through the criminal justice maze wear people down and make it significantly more difficult to achieve a healthy, fruitful existence. Simply put, by unfairly targeting the most vulnerable populations for low-level arrests, police in Minneapolis are making it harder for their own communities to succeed.

Law enforcement exists to serve and protect. But arresting a homeless man of color for panhandling or a young person for a curfew violation doesn't further this goal. These kinds of arrests achieve the opposite, pushing people further away from health, wealth, and opportunity.

The ACLU has offered recommendations to officials in Minneapolis, and they have taken note. But much more work lies

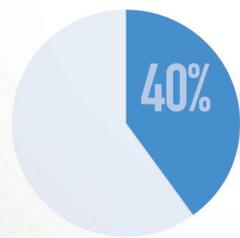
ahead. Everyone in Minneapolis has the same right to be free from unequal treatment by the police. Now is the time for Minneapolis to seize the opportunity and build stronger, more inclusive community-police relations, guaranteeing that constitutional rights apply to all people in all parts of the city. Only then can a tale of two cities become a story of one Minneapolis — unified, fair, and equal. ■

For more information go here: [www.aclu.org/minneapolis](http://www.aclu.org/minneapolis)

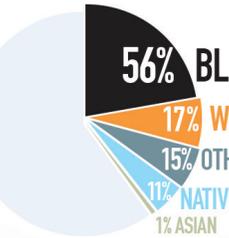
## In Minneapolis, young people must abide by a curfew. On weekdays:



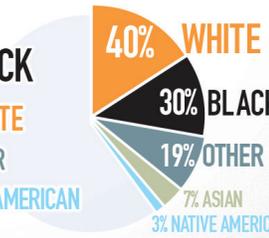
### 40% of low-level youth arrests are for curfew violations



### Here's how that 40% breaks down by race



### If curfew arrests aligned with population they'd look like this



ACLU

# A profile of donors Karen Cooper & Bruce Schneier

Karen Cooper and Bruce Schneier's love for the ACLU stretches back decades. As Karen Cooper related, "I have a colorful past," which made her realize the importance of the ACLU's work at a young age. When she was a single teenage mom on food stamps, she made one contribution a year, \$5.00 to the ACLU. She knew the ACLU stood up for people like her and wanted to support the ACLU.



*Karen Cooper and Bruce Schneier*

Karen and Bruce are independent thinkers who believe strongly in the Constitution and fierce protection of all our rights. One can really see their passions ignite when talking about privacy. Bruce is an international computer security and privacy expert who sees in his day-to-day-work the need for strong protections for individual's privacy rights.

In this day and age, with technology used for every part of our lives, they implore people to recognize how important safeguarding our privacy is. They use the search engine Duck Duck Go, a search engine that doesn't track people, and they are fierce advocates against government surveillance. They were both quite

vociferous about why Americans should care about who is monitoring their online activity. They explain it this way; our online activity, our cell phone records, our text messages, are all known by either corporations and/or the government. While some people may think, "Who cares I'm not doing anything wrong," Bruce and Karen would caution against this thinking. All

of this data could build the picture of a person that isn't always accurate. They believe that we should have the right to our own mental privacy. If we say a dumb thought on Facebook, that shouldn't haunt us 10 years later.

We have a lot of work to do to be in a place where our privacy is better protected online, but they are both optimistic that we can get there one day. In the meantime they would encourage people to give to the ACLU and get involved. Bruce leaves us with these wise words: "Rights are tricky things. They're rarely salient, and you only really notice them when they're gone. Caring is a matter of taking the time to notice them and their value to us, both individually and as a society." ■

## Volunteer with the ACLU-MN at the State Fair

The ACLU-MN is currently looking for volunteers to work at the ACLU booth during the Minnesota State Fair, which runs from August 27—September 7, at the State Fairgrounds in St. Paul.

Interested volunteers will be asked to attend a short training and will receive a ticket into the State Fair and a t-shirt as a small thank you. Shifts are three hours long, the ACLU-MN booth is in the Education Building at the State Fair.

If you are interested in volunteering at the State Fair please contact Jana Kooren at 651-645-4097 x123, [jkooren@aclu-mn.org](mailto:jkooren@aclu-mn.org), or check online at [www.aclu-mn.org](http://www.aclu-mn.org) for more details.

If you are not able to volunteer at the State Fair, we at least hope you can stop by our booth and pick up some ACLU swag. ■

# Legislative Session

*continued from front page*

Several bills that the ACLU-MN opposed this session did not become law:

**Abortion Clinic Licensure:** which would have created onerous licensure and inspection requirements for certain clinics that perform abortions.

**Abortion Funding Ban:** which would have prohibited the use of public funds for abortion services in Minnesota and created a significant barrier to low-income women.

**Student Safety and Physical Privacy Act:** which would have prevented schools from adopting transgender-inclusive policies and required transgender students to use the gym and bathroom facilities for their physical sex rather than their gender identity.

**Uniform Fiduciary Access to Digital Assets Act:** which would grant a personal representative or other fiduciary potentially unfettered access to a deceased person's entire online life, including bank accounts, photo albums, e-mail accounts, text messages, voice mail, social media profiles, and dating messages.

Finally, many ACLU-MN priorities gained momentum and passed multiple legislative committees, but did not become law this session, including:

- [Drone Privacy](#)
- [Police-Worn Body Cameras](#)
- [Data Privacy Amendment](#)
- [Civil Asset Forfeiture Reform](#)
- [Voting Rights Restoration](#)

We will continue to advocate for these and other civil liberties issues in the 2016 Legislative session.

Thank you for all of your help in contacting your legislators to make your voice heard on many of these important reforms! ■

# Confederate Flag

*contributed by Joe Vaccaro, legal intern*

On July 3, 2015, parade-goers in Albert Lea were treated to an unusual sight – a Confederate flag waving behind a fire truck owned by the city of Heartland. This offensive display presents an excellent occasion to discuss two perennial conflicts in American society – the fight for free speech and the struggle for racial equality.

Both freedom of speech and racial equality are rooted in the Constitution, protected by the 1st and 14th Amendments respectively. Under the First Amendment, an individual has the right to speak without government suppression or censorship. However, when individuals, including the firefighter in question, put on a government uniform and act in a public capacity, they enjoy significantly less protection under the First Amendment because any speech they engage in becomes state speech – and here the state has no legitimate interest or purpose in flying racist or political banners of any sort.

Conversely, if an individual chose to display the flag in a government-sponsored parade (the one in question here was sponsored by the local Chamber of Commerce), there is no doubt they would be protected by the First Amendment, as would those who wish to shame them for doing so.

Now that flying the Confederate Flag is finally being recognized broadly as offensive, it becomes more important to remember destroying symbols does not destroy the ideas they represent. As President Obama noted in June, the fact that it is now unacceptable to use racial slurs in public does not mean that the US has done away with the stereotypes they promote. The Confederate flag was born out of that racism's bloodiest explosion, the Civil War, as emblem of the army raised in the defense of slavery. Following the Confederacy's unconditional surrender and passage of the 14th Amendment, guarantying equality under the law to all, it served as a bigoted banner of opposition to the civil rights movement.

Really combating American racism requires the long-called for and never-realized national conversation about race. Most critically it demands white people examine their own privilege and begin working – along with people of all colors – to dismantle institutional racism and insidious everyday prejudice. Individuals who wish to exercise their first amendment rights in full, have ample room in this dialogue, while state-sanctioned prejudice has no place. ■

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Newsletter of the American Civil Liberties Union of Minnesota

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