



ACLU-MN honors Justice Paul Anderson

On Tuesday November 12, the American Civil Liberties Union of Minnesota honored Justice Paul Anderson with its 17th Annual Earl Larson Award. The large reception, which included many current and former judges, honored Justice Anderson for his lifelong commitment to the defense of civil liberties.

Justice Anderson retired in May after serving 19 years on the Minnesota Supreme Court. Prior to his years on the court, Justice Anderson had spent a large part of his life in public service. He is known for his extensive work on international human rights issues and for his commitment to the protection of civil liberties.

Charles Samuelson, the Executive Director of the ACLU-MN, kicked off the evening by highlighting previous winners of the Earl Larson Award. Past Awards have gone to notable names including Walter Mondale, for his work organizing the states' Attorneys General in support of Mr. Gideon in the famous case, Gideon v Wainwright, as well as Peter Dorsey for his leadership role as president of the board at the ACLU-MN and for representing many of those called before the Committee on Un-American Activities.

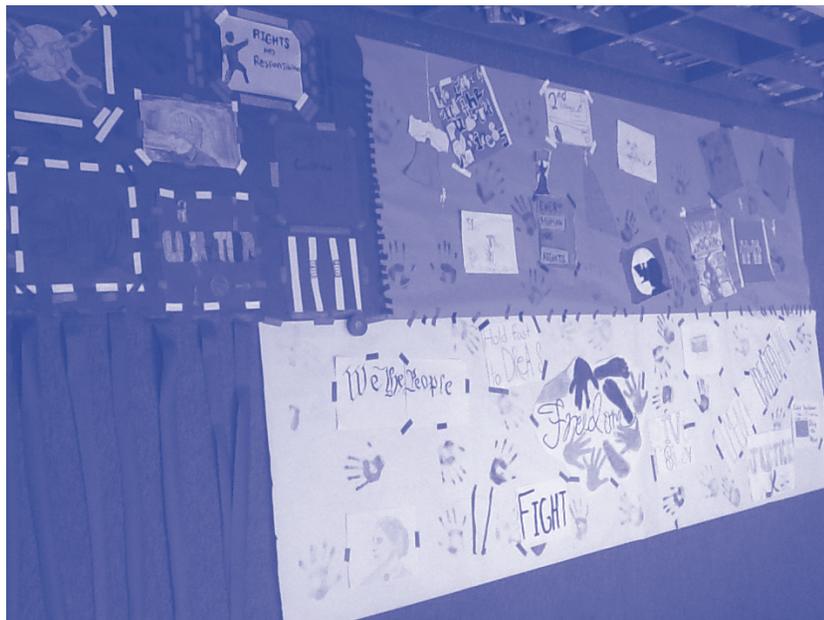
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ACLU honors Minneapolis school with cash prize

Sanford Middle School in Minneapolis was chosen as the second place winner in a nation-wide art contest that was a part of the ACLU's Constitution Day education program. They received a \$7,500 cash award. The Constitution Day program's mission is to teach middle-schoolers about the importance and relevance of the Constitution in their everyday lives.



meant to them. The contest was judged by celebrity artist Shepard Fairey. Other winners included schools in Indiana, Maryland and Washington DC.

Sanford Middle School students created their work of art after studying the Bill of Rights in school and having a speaker from the ACLU-MN talk to them about how the Bill of Rights applies to them.

To enter the art contest, students had to create a mural at their school that depicted what the Bill of Rights

“The Bill of Rights means that we have a power to be equal and nobody is higher than us in freedom,” said student Sebastian Cross, speaking to what drove him to help create this flag inspired mural.



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Yes, the Constitution really should protect everyone

Last month in this column I suggested that the American Civil Liberties Union and I, personally, maintained the view that civil liberties and rights should be applied to everyone in this country. Two weeks after writing that column, I was confronted with signing off on the involvement of the ACLU-MN in preparing an amicus position regarding the indefinite incarceration of sexual offenders under the auspices of a treatment program. I have to admit to you that I could not come easily to the clinical conclusion that this was a cause the organization should be involved in, despite the legal staff’s assurances that the position was absolutely in line with the basic cause of the ACLU-MN.

I was surprised at my own reaction to the issue and spent considerable time trying to come to grips with why I felt conflicted, despite holding what I would consider to be rather hard and fast personal principals regarding civil liberties. How could I support having a program that kept sexual predators locked up and at the same time hold that no one should be incarcerated without due process of law? My conclusion was that my own personal feelings reflected the conflicted societal feelings and mores regarding sexual predation and punishment.

Make no mistake, I find sexual predation and all that goes with it repulsive. On the other hand, should someone who has committed a sexual transgression receive what

amounts to a life sentence when someone who was intoxicated, behind the wheel of a car and caused the death of another person, receive a defined sentence of two or three years of prison time and ten years of probation? And what of the priests who have credible accusations of sexual misconduct leveled against them? Should they simply suffer the indignity of being transferred to a new parish? And what of those who protect them by their silence and assigning them to new churches? Why are they not subjected to at least the same conspiracy laws as those who plot financial crimes? And what of those people in Guantanamo who have been held for a decade but charged with no crime at all?

If the Constitution, the Bill of Rights and the law are not equally applied, what does that mean for us as a society? Who decides who gets protected and who gets punished? This is what I finally concluded—you and I decide, either by our silence or our outcry. If one person is treated with fewer rights than another, what we consider a just society is simply rhetoric and will not ultimately survive.

As we enter 2014, my children are home from college. I look at them and want a real and truly just society for their future. It will take you and me to make that happen. ■

[Editor’s note: the case discussed in this article can be found on page 4 of this newsletter]



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2013, a year in review

2013 is in the books and in many ways this last year was a good one for the ACLU of Minnesota. After more than 40 years, the positions on equal treatment for same sex couples held by the ACLU in Minnesota have prevailed.

Same sex couples can marry. Sexual orientation is protected from harassment under state law. The government cannot use its police powers to advance discriminatory laws based on a person's sexual preference. Nor can private businesses discriminate based on sexual preference.

That success was predicated on the success of two coalitions where the ACLU-MN played a large role at the end of 2012: the voter restriction and anti-marriage amendments. We also powerfully lobbied for restrictions on the civil asset forfeiture laws. While we didn't get a bill passed, the ACLU of MN created a strong liberal/conservative coalition that was powerful enough to get the bill passed in the Senate, but one Representative blocked the bill in her committee.

On the legal front, we filed a lawsuit against the city of Gaylord,

Minnesota because of their racially biased enforcement of Federal immigration law. This is the first lawsuit in the expansion of the Greater Minnesota Racial Justice project to Mankato, Minnesota. Sadly, this fall we were forced to close the GMRJP office in Bemidji after nine years. After spending more than \$1,000,000 to bring equal justice to Native Americans, the ACLU of Minnesota was forced to cut the program's expenses. We have applied the lessons we learned in Bemidji to our program in Mankato.

We are committed to looking forward and are continuing our long range planning process. Currently we are in the process of focusing our programmatic efforts for the next five years. If you have any thoughts about what our program foci should be, please email them to me at csamuelson@aclu-mn.org.

Thank you for your continued involvement in the fight for civil liberties. Without your support, the success of the past years would not have been possible. ■

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

Locked up...forever?

In Minnesota nearly 700 people are imprisoned under the Minnesota Sexual Offenders program, at a prison-like treatment facility because they have been deemed “sexually psychopathic” or “sexually dangerous”. After an individual has finished serving their sentence for a sex crime, the State can ask to have these individuals sent to the MSOP program. The State argues they need to be civilly committed because they are still dangerous. The hearings that determine whether these individuals are dangerous are considered civil by the State. The State argues that civil commitment is meant to protect the community from future sex crimes not punish those convicted for past crimes. Sex offenders committed in these hearings may be held forever.

While the courts have said that the MSOP may be constitutional, the program is still riddled with problems.

As of today, only one sex offender has been released from MSOP. Even though the state’s argument rests completely on the fact that people are not committed as a punishment, the “treatment” has had only one “success” in nearly twenty years. These programs are incredibly costly; taxpayers spend \$120,000 (three times what the state spends to incarcerate a person) a year per patient, but get very poor results for the huge costs. In 2014, the state estimates it will spend almost 77 million dollars and that number grows every year as we keep committing more people. Minnesota has committed more people than any other state, and we are continuing to commit people at the highest rate. Texas, a state with a huge prison population, has ZERO people in inpatient secure facilities. Instead, Texas keeps people in halfway houses and provides outpatient treatment. Minnesota’s program is so notorious that the United Kingdom refused to grant an extradition of an individual who Minnesota believed should be in the MSOP because the U.K. believes that this program violates basic human rights.



The ACLU-MN believes that implementation of MSOP violates the Constitution. The power of the government to deprive a person of liberty to punish that person for committing a crime is strictly controlled by the Constitution. MSOP denies offenders these protections by pretending that it is a civil rather than criminal sentence. Offenders are denied their liberty yet the courts do not recognize their constitutional rights and do not demand that the state prove as much as it would normally have to, to imprison someone for committing a crime. The ACLU-MN warns that courts should be extremely wary of opening the door to such unregulated deprivation of liberty.

The ACLU-MN does not believe that all the individuals who are imprisoned through this program should be immediately released. Instead, reforms should be made to the program that will protect their constitutional rights, while at the same time reducing costs to the state and keeping everyone safe.

This would ensure the program is actually a civil commitment program, not a criminal punishment. There are at least three ways this can be done:

The Government must offer an intermediate option. As it stands, the only two choices are to lock up an offender in a prison-like facility or let them completely free. Minnesota needs intermediate facilities such as halfway houses. States such as Texas use these facilities to implement a more efficient and much cheaper program.

These determinations should, as the Office of the Legislative Auditor suggested in its report, be made by an independent panel of retired judges. These judges are not sitting for re-election and are more likely to take an honest and accurate approach to an unpopular cause such as the constitutional rights of sex offenders. A number of patients of these programs recently sued the State of Minnesota arguing their rights have been violated. The ACLU-MN submitted a brief in the case that discusses the problem it sees with the MSOP. ■

ACLU honors Justice Anderson Love of the 1st Amendment keeps Logan connected to the ACLU

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Robin Wolpert, a former law clerk of Justice Anderson, introduced him and focused on the many important decisions he decided, including *Kahn v. Griffin*, which created a roadmap to guide courts in determining when our State Constitution offers greater protection of our rights.

Cris Stainbrook, President of the ACLU-MN, presented Justice Anderson with the award. Stainbrook highlighted a wise quote that Anderson imparted before he left the bench. “Remember you are affecting human lives. Never, ever lose sight of that.”

In his speech, Justice Paul Anderson mentioned many people who have supported him throughout his life and spoke of the trajectory of his career that made him who he is today. He credited his mother with raising him to have an open mind and ended with talking about the importance of the ACLU. His speech was peppered with personal stories and thoughtful reflection, including one where he called out an elderly woman for being racist. After he shared that story, he connected it back to the ACLU by saying,

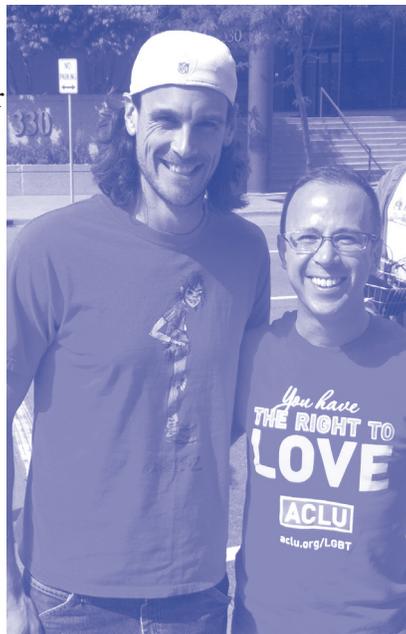
“That is what the ACLU is about, it speaks up. You know we can’t remain silent in this society and not speak up.”

His presence will be greatly missed on the Minnesota Supreme Court. ■



L to R: Charles Samuelson, Justice Paul Anderson & Cris Stainbrook

Logan Aimone has been an ACLU member and supporter for almost 15 years. When he began his career as a journalism and civics teacher, he quickly recognized the importance of the protections we have in the First Amendment regarding to freedom of speech and press. In 2007 he moved to Minnesota, and not only did he continue to give to the ACLU but he also began volunteering. Logan’s



Logan & former Vikings punter Chris Kluwe at the 2013 Pride Parade

energizing and engaging presence has been a wonderful asset to the ACLU-MN. He was great at pumping up the crowds at the last Pride Parade and connecting with teachers through our education program. He is planning on continuing to stay involved and likes that he now has the ability to both give and volunteer.

Logan wishes that more people realized how big a role the ACLU plays in so many issues, from LGBT rights to student’s free expression in school to privacy rights online. He loves that the ACLU has consistently been there for all these issues and more, raising awareness and fighting the battles. Logan especially appreciates the work the education department at the ACLU-MN does in schools educating students on their rights and distributing materials.

Logan’s advice to giving is to start out with what you can afford and gradually increase that amount as your income increases. He would encourage all young people to realize that even \$10 or \$25 helps, that not everyone needs to be a thousand dollar donor. He also very sagely reminds all of us that, “The involvement has to go past a like”. Thanks for your years of dedication, Logan! ■

Connecting students to racial justice work



Students at Gustavus Adolphus College

The ACLU-MN's Greater Minnesota Racial Justice Project has built up relationships with a number of colleges and universities near Mankato, including Gustavus Adolphus College and Mankato State University. As a result of these partnerships, the ACLU-MN has launched a number of collaborative research projects with students that have provided us with a better insight into some of the problems faced by

The ACLU-MN's Greater Minnesota Racial Justice Project has built up relationships with a number of colleges and

communities of color in Minnesota. One of the research projects included surveying communities of color in the Mankato area to ask what their thoughts were of the Mankato Police Department and Mankato Public Schools. A Spanish language class from Gustavus partnered with the ACLU-MN to do door knocking in areas with predominately Spanish speaking residents. These students helped educate residents about their rights and listened to any concerns and issues that they were facing in the community and looked for ways the ACLU-MN could be of assistance. Students at Gustavus also formed a student chapter that has rallied other students on campus about civil liberties issues. ■

Randomly drug testing students is ineffective and violates their privacy



The ACLU-MN sent a letter to Duluth Public Schools encouraging them not to begin suspicionless random drug testing of its students. The ACLU-MN believes this would violate the privacy rights guaranteed to students under the Minnesota State Constitution.

The Duluth Public Schools are considering conducting suspicionless random drug testing for students who participate in co-curricular activities, those who register to park in a high school lot, and those who are members of the "Pledge Makers," a group of students who sign a promise to not use illegal drugs.

Forcing students to submit their urine to officials is a degrading and invasive practice that treats all students as suspects. This policy will

put up barriers between students and staff as opposed to fostering positive, trusting relationships. Studies have repeatedly shown that random drug testing does not reduce student drug use. The largest national student study conducted by the U.S. government's program, Monitoring the Future, found in 2002, that random, mandatory drug testing had no impact on students' rates of drug use. This study covered three years and included over 76,000 students nationwide in eighth, tenth, and twelfth grades. These researchers confirmed these findings again in 2003.

The ACLU-MN hopes that the Duluth School Board will realize that violating students' privacy for a program that has been shown to be ineffective is not worth implementing. They will vote on whether to implement this program at a winter board meeting. ■

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Protecting your privacy in the digital age

While the ACLU-MN will be working on advancing many civil liberties issues this year at the Minnesota Capitol we have already been busy focusing on a number of issues that were discussed at pre-session hearings at the end of January. While, the legislature doesn't convene until the end of February this year, a lot of important work will be going on before then.

The ACLU-MN has been busy weighing in on issues like privacy rights and voting rights. The ACLU recently testified at a House Committee hearing on law enforcement's use of surveillance technologies and an individual's right to privacy. The ACLU-MN brought in Catherine Crump, a staff attorney with the ACLU's Speech, Privacy and Technology Project in New York, to testify on the following issues:

- **Automated License Plate Reader (ALPR)**
Regulation: Police use ALPR cameras that capture images of license plate numbers, allowing law enforcement to monitor and track the movement of vehicles. This technology allows for the capture of mass data on innocent individuals and law enforcement may retain that data for as long as they want. The ACLU-MN is working to pass legislation that was introduced last session (and already passed the House) to restrict the retention of innocent drivers' data by law enforcement.
- **Cell Phone Location Protection:** When turned on, a cell phone can relay its owners' exact location. The ACLU believes law enforcement should obtain a warrant based on probable cause before this technology is used to either obtain current or historic location information.

- **Drone Privacy Protection:** Drones, or unmanned aerial vehicles, are used by both the government and private sector for a variety of purposes, including law enforcement investigation, research, and surveillance along the border with Canada. The ACLU-MN supports legislation that would require a warrant prior to drone use by law enforcement.

The ACLU-MN has been busy advancing voting rights before this session officially begins. There are two voting rights issues that will likely arise:

- **Expanding access to voting:** The ACLU-MN supports a bill that would solidify online voter registration into law (the Secretary of State authorized online voter registration, but it was challenged in court).
- **Voting Restoration:** Minnesotans who have a felony conviction lose the right to vote until they have been released from supervision, including while they are living in the community, even if they never spent any time in prison. Restoring the right to vote for those living in the community will positively engage more people in the democratic process, make the law clear, save resources, and ultimately make all Minnesota communities safer and more just. The ACLU-MN supports current legislation that would allow individuals to vote once they are living in the community.

To stay informed about what the ACLU is busy with at the Capitol make sure you are on our email activist network. You can sign up at www.aclu-mn.org by clicking on the "get alerts" button. ■

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