

CIVIL LIBERTIES NEWS



VICTORY! MINNESOTA TRANSGENDER SURGERY BAN FOUND UNCONSTITUTIONAL

IN THIS ISSUE

Last year the ACLU filed a lawsuit challenging Minnesota’s ban on covering transition-related surgical care to people on Minnesota’s low income state-run insurance plans. The case was filed on behalf of our client, Evan Thomas, and Minnesota’s LGBT rights organization, OutFront.

Now Evan is humming a different tune. In mid-November, a court struck down Minnesota’s ban. Evan already has his surgery scheduled and is

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looking forward to finally having the pain of living in a female body erased.

He shared this sentiment when he heard about the ruling: “Right now, when we’re suddenly facing a path that’s so much rougher than it looked a few days ago, this victory looks even more important, and I’m proud to have been part of this case.”

This ruling applies not only to Evan, but every single transgender person who currently uses one of Minnesota’s low-income state-run insurance plans. The ruling offers protections no matter who is controlling the Minnesota Legislature or Governor’s mansion. ■



Evan’s story:

All his life, Evan Thomas knew he was different. By the time he was five, he knew he wasn’t a girl. Evan is 63 now. He’s spent the years in between trying to survive, working hard to make life bearable as a woman, but it wasn’t enough.

Evan Thomas

He just wanted to have a body that matches his

identity. Unfortunately, his insurance refused to pay for the medical care he needs to be healthy, happy and able to fully live his life.

NEW CHALLENGES AT THE MINNESOTA LEGISLATURE

Minnesota’s legislative landscape changed dramatically with the 2016 election. Most significantly, the Minnesota Senate flipped to Republican control with a thin 34-33 majority. The Republican majority in the Minnesota House also increased with the addition of three Republican seats. This will be the first session that Republicans control the Minnesota Legislature since the 2011-12 biennium. While the Senate is not up for reelection until 2020, the Governor and all Minnesota House seats will be on the ballot in 2018.

The political makeup of the incoming Legislature raises new or increased civil liberties concerns in the areas of reproductive rights, LGBTQ rights, immigrant rights and voting rights. While many of our previous legislative priorities are not likely to advance in the next few years, certain issues, including civil asset forfeiture reform, unwarranted law enforcement surveillance, and data privacy may have support in the new Legislature. Rest assured that the ACLU-MN will continue its strong presence at the Minnesota Capitol in 2017 to defend against any attacks on Minnesotans’ civil liberties. ■



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MOVING FORWARD

It has been a month since the 2016 election. During the campaign season it became apparent that there are groups of people in America who are intolerant of immigrants, the LGBTQ community, blacks, Mexicans, Muslims, Jews, and any number of other groups who they perceive to be the root cause of their dissatisfaction in life. We have a President-elect who seems to have a dim view of Freedom of Speech for anyone except himself and who from all appearances has only a passing acquaintance, if any acquaintance at all, with the United States Constitution. And while the President-elect has promised to “drain the swamp,” he failed to mention during the campaign that he intended to populate his Cabinet with swamp monsters.

Am I down? Yes. Do I look into the future and only see a black miasma? Yes. Do I think that the ACLU-MN is going to be extremely busy during the next four years? Absolutely, positively, yes.

The ACLU was founded to protect our cherished constitutional rights from encroachment and deprivation by government actions intent on accomplishing single-minded goals regardless of what freedoms are trampled. It is the mission of the ACLU to stand up to government and call it out when people are being deprived, or are being threatened with deprivation,

of their constitutional rights. We push back hard against infringement of civil liberties through education, community organizing, lobbying, and – when necessary - going to court.

The ACLU-MN is extremely fortunate to have a dedicated staff of nine hard-working professionals who are backed by our board comprised of more than 20 members of the community. We are blessed to have more than 12,500 donors and members, many of whom volunteer their time to help the ACLU-MN continue its daily fight to protect our constitutional rights. Without those volunteers, particularly the volunteer attorneys who take on challenging, complicated, and time-consuming constitutional lawsuits, we would not be the extremely effective organization that we have been over the past 20 years.

Since the election we have seen an unprecedented outpouring of support for the ACLU in Minnesota as well as nationally. We are grateful for the financial support, for our new members, and for the surge of volunteers who want to help ACLU-MN protect our constitutional rights through what appear to be very trying days ahead. We will continue to need and ask for your support during the next several years in order to build and maintain a firewall to protect our rights.

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Charles Samuelson
Executive Director

ACLU-MN STAFF

Charles Samuelson
Executive Director

Teresa Nelson
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Julio Zelaya
GMRJP Coordinator

WHAT TO EXPECT IN 2017

For several thousand new ACLU members, this is the first newsletter you have received from us. Thank you for joining since the election.

For several thousand other ACLU members, you have been reading this for years. Thank you for your long-time commitment to protecting civil liberties.

Each and every one of you will be important in the weeks and months ahead. Both nationally and locally the ACLU is carefully watching for what is to come. In Minnesota, we already have intimations of what to expect in this new political environment:

- We have anecdotal accounts of increasingly vicious outspoken racial hatred in rural Minnesota. One of those instances involved our own community organizer, Julio Zelaya, who met with such violent verbal attacks in his own hometown on Election Day while doing election protection work for us that he feared for his safety.

- The first lawsuit has been filed in a Minnesota court by a small company that does not want to have to do business with gay married couples. This is a direct challenge to Minnesota’s Human Rights Acts that protects LGBT Minnesotans from discrimination.
- Police around the state are anticipating the lifting of the presidential ban on the use of military weapons by local forces, so that they can re-militarize their forces.

Your ACLU-MN is deep at work planning how to head off these, and other, encroachments on the liberty and dignity of our fellow Minnesotans.

In addition, we will partner with ACLU affiliates around the country to prevent the abuse of the rights granted to all of us by the US Constitution.

Thank you for placing your trust in us to do this imperative work. ■

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HIGHLIGHTS FROM 2016

2016 is coming to an end - here is some of our work from the past year.

IN THE COURTS

- **Ensuring transparency and accountability in police killings.** The ACLU-MN filed two lawsuits to ensure the public had access to any video footage surrounding the killings of Jamar Clark and Philando Castile. (Clark case is moot because the video was released, Castile case is still pending.)
- **Protecting immigrants' rights.** There are currently scores of immigrants sitting in jail facing deportation because of a mistake they have made in their life. Even if the immigrants have served the time for the sentence and made amends, they could still face deportation - including EVEN if they have been here for almost their entire lives. Some of them are granted protection from deportation under the United Nation's Convention Against Torture because if they are forced to return to their birth country they could face torture. Our case challenges the practice of keeping people in jail for months, without a legal reason, after they have been granted protection from deportation. Our clients have spent far too long incarcerated when they could be out with their families, working and building a life. Instead our state wastes millions of dollars keeping them behind bars (*Muzaliwa et al v. Brott et al* - decision still pending).
- **Protecting people from unwarranted government surveillance.** The Constitution guarantees the right to be free from unreasonable searches, which includes surveillance. But as each new technology comes out law enforcement often try to use that new technology to spy without a warrant. We filed (and won) in a case where a state agency was surreptitiously placing GPS surveillance on an individual's car without a warrant. The Court of Appeals agreed with the ACLU and gave clear directives that the agency must get warrants before tracking (*State v. Liebel* - Victory)
- **Protecting transgender student's rights.** At a school in Greater Minnesota, a group of parents sued the school to try and prevent a transgender teen girl from using the restroom and locker room that matches her gender identity. This malicious lawsuit has humiliated and harmed this young girl who just wants to live her life. The ACLU filed a motion to intervene on her behalf to ensure her rights are protected (*Privacy Matters v. U.S. Dept of Education*) and she can use the restroom that matches her gender identity.
- **Free Speech and access to government.** In this case, a woman was charged with disorderly conduct for exercising her free speech rights during a city council meeting. The city council wanted to move the area where the public could sit after there were numerous protests of their actions by city residents, even though the protests never interfered with city business. When a member of the community tried to articulate the point by silently sitting where the public used to be able to sit, she was arrested and removed from the public city council hearing. We argue that all charges should be dropped because her actions did not impede the ability of the council to conduct its meetings, nor did it prevent any other individual from exercising his or her free speech right. (*State v. Hensel*)
- **Representing protesters in their criminal cases.** The ACLU-MN represented a number of people arrested during the protests following the Philando Castile killing. A few of the protesters have already had their charges dismissed; the rest of the cases are still pending.

Along with our direct involvement in cases, the ACLU-MN also advocates by sending legal letters to try and resolve civil rights abuses without filing a case. In 2016 we sent letters to:

- The Department of Corrections to tell them to stop sending inmates to solitary confinement for retaliation when inmates exercised their Free Speech rights.
- The City of Saint Paul and other law enforcement officials who used excessive force on protesters after the Philando Castile shooting.
- Numerous prisons that were refusing to provide needed medical coverage to inmates.■

IN THE HALLS OF GOVERNMENT ON THE STREETS

A message from the ACLU-MN's racial justice coordinator in southern Minnesota

Contributed by Julio Zelaya



ACLU-MN staff at the Minnesota Capitol

The ACLU-MN runs a robust lobbying program during the Minnesota Legislative session. In 2016 our focuses included:

- Advancing privacy rights
- Expanding voting accessibility
- Reforming police practices
- Defending civil liberties including fighting attacks on reproductive freedom, and transgender rights

The ACLU-MN also does work at other government levels when civil liberties issues arise. We testify at city council hearings and send letters weighing in on their city ordinances and policies.

One of the main focuses we had in 2016 was body camera policies. While the ACLU believes that body cameras can be tools for police accountability, all too often policies are crafted that primarily benefit the police, instead of valuing transparency and accountability for the community. We sent letters to Maplewood, Minneapolis, Saint Paul, and Woodbury, advocating that their policies strike the right balance between accountability and privacy.

We also weighed in on city ordinances in a few places in southern Minnesota that would have had a negative impact on the growing immigrant communities. ■

A year of handshakes, name learning, and listening. As a coordinator of the Greater Minnesota Racial Justice Project, I have had the pleasure of working with dozens of communities across greater Minnesota.

My work and that of our Mankato office is to make connections. That means going to legal centers, churches, schools, businesses, Rotary clubs, calls to prayers, bake sales, and Quinceneras because we depend on connections within a community to both find out about when civil liberties issues arise and to educate people on their rights. We meet the audiences where they are. We shake hands, we share names, we listen.

Listening with a community, however, has not been solely in conversations. It is also a handwritten letter from an inmate seeking aid. The act of listening is sometimes a desperate phone call on a Sunday evening asking where to vote in someone's first election, or tears running down a father's face after an explanation of child's rights in a case of parent deportation. It is these moments that give us a glimpse into the fragility and courage of people whom for whom, the word law does not lead to justice.

In small under-served towns, the ACLU-MN provides a keen ear for civil violations. The ACLU's rich organizational history of activism has provided access to justice to often overlooked communities. In times of fear and anxiety, our office remains visible to those tempest tossed, who feel the few civil rights they had might be fading.

After all, it is in these communities - in this work - that law has its visceral meaning. Here it means a trembling hand with a plea for help, a vote that may not be cast, and a fear-stricken family too afraid to step outside.

This is our work, our right, our liberty. ■

ENGAGING WITH THE ACLU

Since the election, we have been fortunate enough to meet a lot of new friends who are excited about sharing their passion for the ACLU within their circles. Here are three people hosting fundraisers to benefit the ACLU-MN in the coming months.

If you are interested in hosting a house party or fundraiser for the ACLU-MN, please contact Molly Miller Mons at 651.526.1696 or mmiller@aclu-mn.org.



KEITH LEE

After Election Day, I think we were all in shock and at a loss about what to do. Even though I'm a U.S. citizen by birth (2nd generation Korean American) I suddenly felt vulnerable for

myself and all non-white immigrants and descendants of immigrants. Never did I think we would regress as a country to the point where serious discussions of registries and internment camps would resurface.

I felt it was important to respond as quickly as possible, to show that we are ready to defend our rights (inalienable, right?). I asked my wife (a practicing attorney and ACLU member) who would be in the front line, and of course she replied the ACLU. I know a lot of musicians and attorneys, so it was natural to put together a music benefit. It was my wife's brilliant idea to have it on Inauguration Night. So it's game on! #DefendCivilLibertiesBenefit on January 20, Black Dog Cafe Lowertown, Saint Paul.



JEAN CAREY

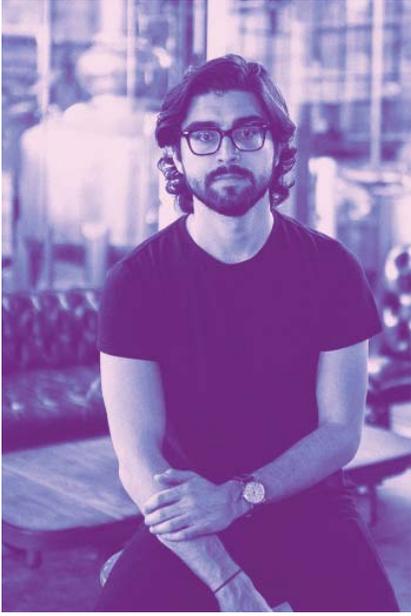
The rhetoric from the recent political campaign, which I found terrifying, resurrected my politically active spirit from the 1970's. If people don't stand up to

the lunacy now, our lives will be forever changed. Doing nothing is no longer an option!

My path to standing up started with a conversation with one of my customers at Cadenza Music. That conversation led to others, which ultimately led to planning a concert starting at 7:30 p.m. on Monday, January 16, at The St. Anthony Park United Church of Christ. Professional musicians from the St. Paul Chamber Orchestra, friends from the Minnesota Orchestra and others joined together to quickly organize a program of intimate ensemble performances. Among my friends organizing this project are Alicia McQuerrey, Carole Mason Smith, Anne Halvorson, and Wendy Williams. We chose the ACLU-MN as the concert's beneficiary because our civil liberties are being threatened and this organization is our first line of defense. We appreciate their efforts!

Concert tickets are available through the ACLU-MN website, www.aclu-mn.org.

ENGAGING WITH THE ACLU



TONY LIBERA

I've wanted to do more in my community for a long time — something more impactful than donations alone. Finding the right place to do that proved somewhat difficult because so many organizations either didn't align with my values or weren't quite what

they portrayed themselves to be. Ultimately, the 2016 presidential election was the catalyst for committing to something. The events of the past year have been disheartening, but my hope is that they've galvanized a huge group of people into direct action.

I think people are often deterred from working with a nonprofit or charitable organization because they don't know if their actions will have an impact. I tried not to worry about the outcome, focusing instead on what my friends and I could realistically accomplish with our resources. No matter what happens, it's something.

We decided to host a private fundraising event at Norseman Distillery in NE Minneapolis. The Norseman folks are good friends, and their space and drinks are amazing. There'll be some good bands and strong cocktails. We're going to have a lot of fun with it.

It's amazing how much the ACLU has done for this country and its people on both local and national levels over the last century. They often have to make tough decisions, but they do their best to make them the right decisions. We're going to need the ACLU in the coming years, and we can rest assured that they'll be there for us. ■

MOVING BEYOND

President's column cont'd from page 2

If you have donated money or time to the ACLU-MN this year, I thank you from the bottom of my heart. If you are thinking of volunteering time to ACLU-MN in 2017, please do so; we need all the help we can get. And if you can spare some extra money for the ACLU-MN in 2017, we would be so deeply appreciative of additional support. It is impossible for us to do what we do without financial support, and the more we have to do to protect civil liberties the more money we need with which to do it. I hope you will help us to do more.

Despite my bleak outlook on the world, I am hopeful that with the ACLU-MN on high alert, 2017 will be a better year than I am expecting it to be. I wish you and your families the greatest of health and happiness in the New Year. ■

UPCOMING EVENTS

Friday, January 13

The Myth of Colorblindness: A Conference on Racial Disparities in our Criminal Justice System. 8:30 a.m.- noon, University of Minnesota Law School, Minneapolis.

Monday, January 16

Uniting in Music: A Concert to Benefit the ACLU. 7:30 p.m., St Anthony Park United Church of Christ, St. Paul.

Friday, January 20

#DefendCivilLiberties: a Benefit for the ACLU. 6 p.m., Black Dog Cafe, St. Paul.
Online registration not available

Sunday, February 12

ACLU Trivia night: Tap the Constitution. 6-8:00 p.m., Can Can Wonderland, St. Paul.

**To register for any of these events
please visit our website:**
www.aclu-mn.org/get-involved/events

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Questions? Contact Molly Miller Mons at 651.529.1696 or mmiller@aclu-mn.org

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