

# LIBERTIES

KEEPING AMERICA SAFE AND FREE

FALL 2009

## ACLU APPLAUDS SETTLEMENT, POLICE APOLOGY

In another victory for civil liberties, the ACLU-Eastern Missouri and a team of cooperating attorneys have won a settlement in a lawsuit on behalf of four peaceful protesters arrested without warrant in 2003.

In a settlement in September, the St. Louis Board of Police Commissioners agreed to pay damages and send a letter of apology to the protesters for the violation of their first and fourth amendment rights. "It's a serious miscarriage of justice when those we

rely on to enforce the law are the very ones who violate it," said **Anthony Rothert**, ACLU-EM Legal Director.

In May 2003, four activists planning a peaceful and lawful protest at the World Agricultural Forum in St. Louis were upended by St. Louis police who clearly targeted them as "anarchists," arrested them and prevented their participation in the protest. The ACLU filed a civil rights lawsuit in federal court on behalf of the protesters in May 2005.

In the letter of apology from the police department to the young activists, the board writes that the St. Louis Metropolitan Police Department "sincerely regrets the grievances of plaintiffs arising from the department's response..." and acknowledges that the "infringement of civil liberties of the citizenry was not warranted..."

ACLU-EM Executive Director **Brenda Jones** commends the police department action: "We are appreciative of the...letter and congratulate Chief Isom on his leadership in resolving this matter."

Cooperating attorneys included **Gary Sarachan** and **Sheila Greenbaum**, of the Clayton firm Capes, Sokol, Goodman & Sarachan, PC., **Bill Quick** and **Rory Ellinger**. "This case supports an important and fundamental principle. There is no justification, legal or otherwise, to arrest innocent persons simply because they fit some profile," said Sarachan.



## ACLU-EM Staff

Brenda Jones, Executive Director  
Tony Rothert, Legal Director  
John Chasnoff, Program Director  
Redditt Hudson, Program Associate  
Lucinda Perry, Development Director  
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Reach a staff member (314) 652-3114

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## COURT DECISION AFFIRMS EQUALITY FOR MENTALLY DISABLED

A Valley Park woman with mental and physical disabilities and the ACLU-EM celebrated a significant win when the Missouri Supreme Court found that a Missouri statute enacted during the state's 2005 Medicaid overhaul violates federal anti-discrimination laws.

Andrea Bechtel, a Valley Park woman with mental and physical disabilities, had been receiving personal care services in her home. When Missouri overhauled its Medicaid program, she was abruptly cut off from receiving help with her daily living activities due to physical disabilities. It seems a newly enacted statute specifically excluded persons who had been appointed a guardian due to mental disabilities from receiving in-home care services.

"In its effort to save money, the state discriminated against some of Missouri's most vulnerable residents," says Brenda Jones, executive director of the ACLU of Eastern Missouri. "We are grateful that the Missouri Supreme Court has ordered the state to restore the benefits Ms. Bechtel, who needs to remain in the community and out of an institution."

Ms. Bechtel disputed the loss of her benefits before an administrative

hearing and in the Circuit Court for St. Louis County without success before appealing to the Missouri Supreme Court. ACLU-EM Legal Director Tony Rothert and Ms. Bechtel challenged the statute as a violation of federal anti-discrimination laws, which are designed to protect persons with disabilities. In January, the Court found that the statute did violate federal anti-discrimination laws.

"Andrea pleaded and proved that section 208.900.1 violates the Americans with Disabilities Act and the Rehabilitation Act by excluding her from participation in the PCA program on the basis of her mental disability," Judge Richard B. Teitelman wrote for a unanimous court.

The decision appears to be the first time the Missouri high court has determined that a state statute violated the Americans with Disabilities Act.

The case was returned to the lower court, which ordered reinstatement of Ms. Bechtel's benefits retroactively and awarded her attorneys' fees and costs. Rothert, who argued the case before the State Supreme Court, and Nancy Emmel of the Clayton law firm Sindel & Emmel represented Andrea Bechtel. Visit [www.aclu-em.org](http://www.aclu-em.org) to view the court decision.

## ACLU INVESTIGATION UNCOVERS VIOLATIONS

**T**he stories are appalling. Physical abuse. Medical neglect. Sexual harassment. The treatment of inmates in city jails as reported by correctional officers reveals a pervasive culture of mistreatment and cruelty condoned by officials at the highest levels of authority.

These abhorrent and blatant policy violations are documented in a major report released in March by ACLU-EM and compiled by Program Associate **Redditt Hudson**. The report, *Suffering in Silence: Human Rights Abuses in St. Louis Correctional Centers*, is the result of extensive interviews by Hudson with correctional officers as well as inmates. Correctional officers reveal attempts by high-ranking Department of Corrections officials to cover up the abuses. They also report that certain officials favored those employees who participated in repeated policy violations by promoting them, while those who reported the mistreatment were forced out of their jobs.

“Without intervention, there is no reason to think any of these conditions are going to change.”

—Redditt Hudson, Program Associate, ACLU-EM

It’s as much a matter of respect for human dignity as it is abiding by the rule of law. In a foreword to the report, ACLU-EM Executive Director **Brenda Jones** writes: “...How we treat the people we incarcerate marks us as a culture, a society, as human beings.” She goes on to call the report a “guide to discovery for government officials. It is a call for accountability by officials under whose watch the abuse occurs and who are obligated to repair a brutal, broken system.”

The investigation continues along with ACLU’s follow up on complaints filed. New information emerges as additional correctional officers, including current employees, come forward with supplemental information.

A number of inmates as well have contacted ACLU seeking interviews to tell their stories. We have information that the Department of Corrections has sought to halt the flow of this information and that inmates are being intimidated to stop requesting complaint forms.

Controversy surrounded the report upon its release with regard to the confidentiality of some informants and the extent of the abuses. After a follow-up series appeared in the *St. Louis American*, dozens of people came forward to confirm the report’s findings. Correctional Officer Willie

“Most of the guys just like me have no one on the outside to help. I understand that we have been charged with a crime, but we are still human.”

— Inmate

McMorris, in court records, had been cited for beating an inmate and then covering it up by denying access to the prison grievance process. That same officer was implicated in three cases of physical abuse in the ACLU-EM investigation.

We have yet to see the final impact of the report. Hudson says, “We opened up a line of communication with the United States Justice Department and have kept communication open. We hope that authorities with the power to subpoena will build on our work and bring justice to these inmates — most of whom have not even been convicted of a crime.”

The City of St. Louis Board of Aldermen Public Safety Committee held three hearings on our report. The full board passed a unanimous resolution asking the ACLU-EM to work with the city on significant reforms.

# RELIGIOUS FREEDOM

## DECISION ENDS BIBLE DISTRIBUTION IN PUBLIC SCHOOLS

Once again the justice system has rejected an attempt to breach the separation of state and church by upholding a permanent injunction ending the practice of distributing Bibles in the public school of a rural Missouri county.

The ACLU-EM filed suit on behalf of three families whose children attend the South Iron public schools. They objected to the continual efforts to distribute Bibles to elementary school children during the school day, even after the former superintendent, the school board's attorney and the district's insurance carrier, in addition to the ACLU, explained that the practice violated clearly established law.

"Religious liberty is among the most fundamental of the freedoms guaranteed by the Bill of Rights, and religious liberty is best protected by keeping the government out of the realm of religions," said **Leonard Frankel** of the law firm Frankel, Rubin, Bond, Dubin, Siegel & Klein, the ACLU's cooperating attorney on the case. "Public schools should leave religious training to parents and churches."

The ACLU made numerous attempts to work with the school board to fix the problem, said **Brenda Jones**, Executive Director, ACLU of Eastern Missouri. "Unfortunately, it has taken the intervention of the courts to stop the active promotion of Christianity to the elementary students in South Iron."

The United States Court of Appeals for the Eighth Circuit affirmed the injunction entered January 2008 by **U.S. District Judge Catherine D. Perry** that prohibited the South Iron R-1 School District from "allowing distribution of Bibles to elementary school children on school property at any time during the school day."

The permanent injunction was the culmination of the ACLU-EM suit filed in early 2006, which asserted that the 30-year practice of distributing Bibles to elementary school children breached the separation of state and

"Religious liberty is among the most fundamental of the freedoms guaranteed by the Bill of Rights, and religious liberty is best protected by keeping the government out of the realm of religions."

—**Leonard Frankel**

church mandated by the Establishment Clause. The district court earlier had entered a temporary injunction against Bible distribution, which was upheld by the Eighth Circuit appellate court in August 2007.

"At every step of this case, the court recognized that public schools cannot become religious recruiting grounds," said **Anthony E. Rothert**, ACLU-EM Legal Director and co-counsel for the parents. "Grade schools should be in the business of educating kids, not proselytizing to them."

The decision can be viewed on the ACLU of Eastern Missouri's website at: [www.aclu-em.org/southiron](http://www.aclu-em.org/southiron).



## A WIN FOR EQUAL OPPORTUNITY IN MISSOURI

It was another win for civil rights when the ACLU-EM derailed an attempt by Timothy Asher and the Missouri Civil Rights Initiative (MoCRI) to eliminate programs that give opportunities to people of color and women in Missouri.

A Missouri circuit court judge struck down a proposed ballot initiative that would have amended the state constitution to outlaw equal opportunity programs. In a lawsuit filed last December, the ACLU argued that the petition should not be circulated for signatures because it seeks to mislead voters in an attempt to ban an array of equal opportunity programs, thereby violating the Missouri Constitution.

“The ballot initiative was deceptively worded. If you voted for it, you would think you’re voting for blanket equality for all people, but actually, you would be voting to end programs that help women and minorities,” says **Brenda Jones**, Executive Director, ACLU-EM.

The ACLU argued that changes to the Missouri Constitution would dismantle essential equal opportunity programs and restrict opportunities

“The multiple subjects in Asher’s petition would perpetrate a fraud on the voters, and, for that reason alone should be disallowed.”

for women and racial and ethnic minorities to compete for positions in public education, state contracting and employment.

“The ruling strikes a crucial blow against a fraudulent and deceptive attempt to roll back important state programs ensuring women and racial and ethnic minorities have fair notice of opportunities and are given an equal chance to compete,” says **Reginald T. Shuford**, Senior Staff Counsel for the ACLU Racial Justice Program.

The proposed initiative was deceptive and unfair in violation of Missouri law because it attempted to mislead voters into believing it sought to uphold equal opportunity programs while its true purpose was to end them.

“The law makes clear that voters must be given notice of what they are being asked to vote on. The initiative in this case failed to do that and was likely to cause significant confusion

on Election Day,” says **Anthony Rothert**, Legal Director of the ACLU of Eastern Missouri.

Eliminating the state’s equal opportunity programs would be turning back the clock for women and people of color, Jones says. “Ultimately, this would mean continuing the status quo of Caucasian men getting the best jobs and others being left out of the running,” she says.

Sadly, these attacks on effective programs that benefit so many Americans won’t go away. Following two failed attempts, Asher has filed another petition for the 2010 ballot.

Attorneys in the case included cooperating attorney **Arlene Zarembka** of St. Louis; **Anthony Rothert**, ACLU-EM Legal Director; **Stephen Douglas Bonney**, ACLU of Kansas and Western Missouri; and **Shuford** and **I. India Geronimo**, ACLU Racial Justice Program.

## ACLU FOLLOWS SCHOOL-TO-PRISON PIPELINE

**W**hat determines a child's pathway to success — in school, with relationships, with authority — versus one to failure?

Consider a 6-year-old, acting on an impulse. In a rural school in southeast Missouri, this child stuck his tongue out at a teacher. Police were called. The boy was written up for sexual harassment. "How does that make this child feel? He doesn't even know what sexual harassment is," says **John Chasnoff**, ACLU-EM Program Director. "How does this affect his relationship to school and could this set him on a course for future problems?"

The ACLU has set out to identify certain practices and policies that lead at-risk students from the classroom into the juvenile and criminal justice systems. ACLU-EM has received a \$10,000 grant from National ACLU to document the pipeline—from school to prison—in eastern Missouri. It's not just an issue of juvenile justice but one of connecting teachers, school officials and parents to effect a change in course for vulnerable students.

"We are trying to identify the issues behind suspension and expulsion that contribute to the high drop-out rate and increased arrest rates," Chasnoff says.

Two target schools, one in the St. Louis urban area and one in southeast Missouri, will serve as models. "We are organizing parents, teachers and students to discuss the problems from their perspectives, so they can advocate for policy change," Chasnoff says.

ACLU was instrumental in organizing a School-to-Prison Pipeline Coalition in the St. Louis area. This group of legal advocates, educators and community organizations will combine their expertise to search for a solution in the St. Louis area.

## PROGRAM DIRECTOR JOHN CHASNOFF TACKLES FULL AGENDA



Since joining ACLU-EM full time as Program Director in January 2009, longtime St. Louis activist **John Chasnoff** has become immersed in several projects that cover a range of civil liberties issues. He immediately became part of the ACLU's first foray into initiating legislation, introducing a bill to create a commission that would study the effects and use of tasers. This dovetails with his previous work on issues related to police accountability. John says his position

with the ACLU affords him "a wonderful, exciting challenge to fight for civil liberties." Currently, he is building the foundation for a new initiative on the School-to-Prison Pipeline and working to further the organization's Muslim Rights Project.

John and **Susie Chasnoff**, married for 33 years, have two children and two grandchildren. He is a 1974 graduate of Yale University.

## MUSLIM RIGHTS VS HOMELAND SECURITY

**F**or **Adil Imdad**, flying anywhere turns into a nightmarish experience. The Pakistani native has become accustomed to long delays and extra security checks every time he travels. It's not only an inconvenience but a personal humiliation. An environmental engineer, Imdad is the chairman of the ad-hoc committee at W. Pine masjid, where he worships. "Regardless of whether I am flying domestically or abroad, an attendant always calls the FBI for approval to allow me to board the airplane," Imdad says. On his return to the United States, he has come to expect "greetings" by U.S. Customs for questioning "before I even exit the plane." Additionally, he endures physical searches and his bags undergo extra scrutiny.

"I can't begin to describe the embarrassment that my wife, my two daughters and I feel in front of the whole airport," he says. "This profiling also happens to our religious leaders."

In response to numerous such stories in the Muslim community, the ACLU-EM established a Muslim Rights Task Force two years ago to identify the problems and take steps to correct unwarranted searches and violations of civil rights. It has identified intrusive FBI surveillance,



no-fly lists at airports and employment discrimination as three of the key issues. "We have designed the project based on the recommendations of the task force," says **John Chasnoff**, ACLU-EM Program Director.

The first goal is to visit 12 St. Louis area mosques and distribute Know Your Rights pamphlets as a way of introducing ACLU's mission and services to the Muslim community. This series of presentations is currently underway. "We have been very well received in making the Muslim community aware of what we do," says Chasnoff.

St. Louis immigration attorney **Jim Hacking** is currently chairing the ACLU-EM's Muslim Rights Task Force. The members will determine

locations for Complaint Centers where ACLU will be accessible to the greatest numbers. Know Your Rights workshops and easily accessible complaint forms at these centers will let the Muslim community know that they can reach out to the ACLU if rights are violated.

"Similarly, we plan to work with the Task Force to identify schools with large Muslim populations and begin to educate majority students about Muslim cultures and traditions," Chasnoff says.

ACLU-EM has received a \$10,000 matching grant from the Roblee Foundation for this project. The project will proceed while ACLU-EM seeks to match those funds.

## TASER BILL MAKES IT TO COMMITTEE

### ACLU-EM Joins Coalition to Control Tasers

The ACLU-EM has partnered with our Mid-Missouri Chapter in Columbia as well as the Mid-Missouri Coalition to Control Tasers. Coalition partners include the ACLU of Eastern Missouri, GrassRoots Organizing, Mid-Missouri Women's International League for Peace and Freedom, Missouri Association for Social Welfare, the National Association for the Advancement of Colored People and Parents, Friends and Families of Lesbians and Gays.

A "non-lethal" taser shock administered for 27 seconds resulted in the death of a 19-year-old mid-Missouri young man. This is just one of many taser incidents that bring into question the safety of taser use by law enforcement officials. Too many unanswered questions with regard to the effects of tasers and the lack of standardized policies led the ACLU-EM this year to introduce legislation that would create a task force to study the safety of tasers and recommend policies for their use.

The bill called for a commission to study unanswered questions regarding taser use. "We want to know they are as safe as they're often promoted to be. What is the physiological effect when they're used on children or the elderly or people with various medical conditions?" says **John Chasnoff**, ACLU-EM Program Director.

Startling statistics reveal that since 2001, almost 400 people in the United States have died following taser shocks. Additionally, a recent study found that 25% of tasers actually emitted more voltage than the specifications call for.

The ACLU-EM believes that the issue has not received nearly enough review. "In the meantime, while the study is going on, tasers should only be used when lethal force would be justified," Chasnoff says. "Current policies vary hugely among police departments."

This legislative initiative was an effort by ACLU to be more proactive in introducing legislation. That the bill got a hearing in the state House its first year is a step in the right direction, Chasnoff says. "We're planning for a second round this coming legislative session. We think we can build on last year's progress," he says.

Join the hundreds of other fans who are keeping up with the latest happenings through the ACLU of Eastern Missouri's Facebook Page!



## MISSOURI TAKES A STAND AGAINST REAL ID

**W**hen Gov. Jay Nixon signed the Driver's License Privacy Act in July, he placed Missouri among 15 states proactively leading the opposition to the federal Real ID initiative. "This is a major piece of legislation and Missouri is at the forefront of change," said **John Coffman**, ACLU Legislative Consultant. "We are delighted to be among those states pushing back and saying 'no' to the federal scheme to seriously invade the privacy of Missouri citizens who hold a driver's license."

The REAL-ID plan would require a wealth of private information to be electronically embedded into driver's licenses. "This is information that private business could presumably buy from the Department of Revenue, making citizens even more vulnerable to ID theft," Coffman said. Requiring such information to be readily available on an ID card also poses a direct threat to religious minorities, victims of domestic violence, judges, police officers and others who have very good reasons for keeping their personal information private.

When you consider the administrative and financial burdens of this unfunded mandate, it is to everyone's benefit that the ACLU was able to join a broad and diverse group of political groups, including the Gun Owners of America and the American Conservative Union, in opposing what could become a de facto national ID card.

The Driver's License Privacy Act (HB 361) specifically prohibits state implementation of Real ID and any standardized identification system based on state licenses. It prohibits the selling of driver's license information without an individual's consent and mandates that all biometric information collected in connection with Real ID be deleted from all databases.

"This statute is a victory against the encroachment of government into our private lives. Missourians have declared that they will not accept any attempt to deprive them of their liberties. There are better ways to safeguard our security and improve drivers' licenses than the Real ID Act," said ACLU-EM Executive Director **Brenda Jones**.

### Same Sex Couples Attend Prom in Poplar Bluff

The ACLU of Eastern Missouri was recently contacted by students from Poplar Bluff High School regarding the rules surrounding the high school's prom and the school's unwillingness to allow same sex couples admittance. The R-1 School District's Student Handbook states that "Prom shall be open to all juniors and seniors currently attending PBHS. Each junior and senior attending may invite one guest of the opposite sex." After our contact with the school district, the students were allowed to attend the prom as couples. We are still working to ensure that the district officially changes the policy to allow same sex couples to attend any dance.

### SAVE THE DATE



38TH ANNUAL  
BILL OF RIGHTS  
CELEBRATION

SATURDAY, DECEMBER 5  
COMING TOGETHER FOR CIVIL LIBERTIES

## THANK YOU TO OUR SUPPORTERS

As you reflect on your philanthropic contributions for the year, please consider a generous gift to the ACLU of Eastern Missouri Fund. As a valued donor, you'll receive exclusive invitations to events and meetings with prominent local and national civil libertarians — along with other opportunities designed to keep you abreast of the most pressing issues of the day. And you'll have the satisfaction of knowing that you are defending the constitutional rights of thousands of Missourians.

Thank you to our many supporters who contribute to the ACLU of Eastern Missouri Fund. Because of your generosity and commitment, the values of the Bill of Rights continue to be more than a promise on paper. These tax-deductible contributions made to the Fund support our litigation and public education programs.

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### IN-KIND GIFTS

Larry Goldberg  
Brad Pierce and Laurie Vincent

Every effort was made to ensure the accuracy of this list. If your name has been omitted or listed in error, please contact Lucinda Perry at (314) 652-3114.

We also want to thank everyone who made tribute gifts or contributed to a special event, such as the 37th Annual Bill of Rights or the Columbia Networking Reception. These contributions also help support our litigation and public education programs!

\*deceased

# 2008-2009 GIFTS

## REMEMBERING MARVIN BOISSEAU

**W**e are saddened by the loss of dedicated civil libertarian, **Marvin E. Boisseau, Jr.** A retired lawyer and judge, Mr. Boisseau was an active member of the ACLU for 60 years. He joined the St. Louis Civil Liberties Committee in 1949, shortly after graduating from Harvard Law School. Throughout his life, he worked tirelessly for the causes and efforts he believed

in, including voting rights, environmental issues, and campaigning for political candidates.

Mr. Boisseau chose to show his profound commitment to the Constitution and Bill of Rights by naming the ACLU as a beneficiary of his estate. We are deeply appreciative for this extraordinary gift that will provide us with critical support in our defense of civil liberties.

### Our sincere thanks to our card-carrying members!

You are part of a vibrant national network boasting over 550,000 members. Your support allows us to stay ahead of the freedom curve!

## RESTORE JUSTICE, TAKE ACTION, BE INFORMED!

ACLU OF EASTERN MISSOURI TO ENHANCE COMMUNICATION THROUGH TECHNOLOGY

**F**reedom can't protect itself. That's why the ACLU is putting the power to protect liberty in your hands. We want you to be the first to celebrate a hard-fought victory with us...and to help us respond quickly to protect civil liberties, both here in eastern Missouri and across the country.

The ACLU will now send regular e-mail updates about threats to our fundamental freedoms to all members and friends for whom we have an e-mail address. You will

receive the latest civil liberties news, national and local issues, actions you can take online and offline, and events near you.

#### How to Stay Informed

- Make sure we have your e-mail by sending it to [scott@aclu-em.org](mailto:scott@aclu-em.org).
- If you still want a printed copy of *Liberties*, please call (314) 652-3114.

As part of our enhanced communication strategy, we will now offer *Liberties* electronically. We'll send you an e-mail message with a link to the latest issue as soon as it's posted on the internet, which means you'll get it days earlier than you would in print. All our newsletters will be archived on the ACLU of Eastern Missouri Website, so you won't need to worry about saving back issues. And, by communicating electronically we can dedicate our resources to our legal, legislative and public education programs.



454 Whittier Street  
St. Louis, MO 63108

# TRIBUTES

## TRIBUTE & MEMORIAL GIFT PROGRAM

### A GIFT TO HONOR AND REMEMBER OTHERS

Are you looking for a unique way to celebrate or acknowledge a special occasion or event, such as a birth or birthday, anniversary, bar mitzvah, or other life events? The ACLU of Eastern Missouri's tribute program is a wonderful way to honor family and friends...or to express sympathy.

#### **IN HONOR OF TONY ROTHERT**

Lenny Frankel

#### **IN MEMORY OF ERA GREIMAN**

Margaret Gilileo and Charles Guenther

A personal acknowledgment is sent to the family or individual being honored, and your tribute is listed in the *Liberties* newsletter.

Tribute gifts are particularly special because in addition to honoring a friend or loved one, your gift also

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helps the ACLU of Eastern Missouri defend civil liberties. If you have questions regarding the Tribute & Memorial Gift Program or would like to request a tribute form please call **Scott Emanuel** at (314) 652-3114 x23.

#### **IN MEMORY OF ALBERTA SLAVIN**

Terry Bloomberg  
Sydell Shayer

#### **IN MEMORY OF MARVIN BOISSEAU**

Jutta Buder  
Fred and Sara Epstein  
Madelon Short

