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ACLU Sues City of Omaha Over Ongoing Police Problems

Omaha has an unfortunate history of racial tensions between police and minority communities that extends back for decades. Observers took hope that a change was in the air when the City Council created a new independent watchdog office to handle complaints against police in July, 2000. The Public Safety Auditor position was created by a city ordinance. Many citizens in neighborhoods plagued with law enforcement tension were relieved to finally have an outlet for complaints that went outside the normal complaint process. "Complaining to internal affairs just didn't seem likely to ever go anywhere," said one North Omaha resident who asked to remain nameless. "We needed an outside office, otherwise you were asking the fox to watch the chickens."

The first Public Safety Auditor hired was Tristan Bonn, a former law enforcement officer who brought good qualifications to the position. Bonn quickly established community advisory boards with local neighborhood leaders who could meet with her on a monthly basis and give her a sense of what Omaha residents needed. Bonn began issuing reports to the public and city officials that outlined the types of citizen complaints her office was getting, and she made recommendations for serious changes needed to improve police.

In 2006, the City Council cut the funding for the Public Safety Auditor position entirely. News reports that circulated at the time suggested Bonn's insistence on continuing to point to inappropriate behavior by police made her unpopular with the city.

The Public Safety Auditor position remained open; no ads were posted to hire a new employee. Community activists in North and South Omaha began holding local forums, calling for the city to hire a new independent auditor, lobbying city officials and holding press conferences, but all to no avail.

"We needed an outside office for police complaints in Omaha, otherwise you were asking the fox to watch the chickens."

--North Omaha resident

At this point, grassroots activists came to ACLU Nebraska and asked for our help. With volunteer attorney Bob Broom of Omaha, we filed suit in state court in April. The lawsuit is a "writ of mandamus," which asks the judge to require the city council to perform its obligation under the law. Here the obligation is to hire a Public Safety Auditor, as mandated by the 2000 city ordinance.

The lawsuit is filed on behalf of two community activists: Reverend Edward Rollerson and Charles Parks, Jr., both of Omaha. They are active in the Omahans for Justice Alliance, an affiliation of several groups interested in improving police conduct in Omaha.

Judge Sandra Dougherty of Douglas County District Court has ordered the city to show why it does not have a legal obligation to hire another Public Safety Auditor. The case may take several months to proceed, but as Bob Broom told reporters, "Right now, the City holds out the promise to its residents that there will be independent oversight of police, but has failed to fulfill that promise. This suit may finally bring movement."



Community
Services
Fund
A Choice in Giving

STAYING ON THE BATTLEFIELD: THE ONGOING FIGHT TO END THE DEATH PENALTY

Many of us hoped 2008 would be the year to bring abolition to Nebraska. Sadly, though the bill reached the floor for full debate by all senators, the vote failed.

ACLU Nebraska's connections with the death penalty movement are strong. On ACLU's board, for example, Board President Alan Peterson currently represents death row inmate Carey Dean Moore. Board Vice President Christy Abraham is the former director of Nebraskans Against the Death Penalty. Two board members, Nelson Potter and Russ Alberts, also serve on the NADP board. ACLU Nebraska Legal Director Amy Miller is currently Chair of NADP and ACLU Administrative Assistant Megan Moslander is Office Manager of NADP. These close ties made the two organizations very effective partners this year, and we plan on continuing that in the future as well.

With assistance from out-of-state organizations such as Amnesty International and Witness to Innocence, ACLU helped NADP lobbying efforts by escorting guests to visit with senators. One such visitor was Sam Millsap, a former Texas prosecutor who sent an innocent man to his death and now works as a passionate abolition activist. Another visitor was Curtis McCarty, an Oklahoma man who spent 22 years on death row for a crime he didn't commit. His story of being proven innocent by DNA evidence was clearly moving to senators and audiences around the state.

We used local experts, too. ACLU volunteer attorneys Brent Bloom (former Douglas County prosecutor) and David Lanphier (former Chief Justice of the Nebraska Supreme Court) graciously aided our lobbying efforts by providing letters to state senators calling for repeal of the death penalty.

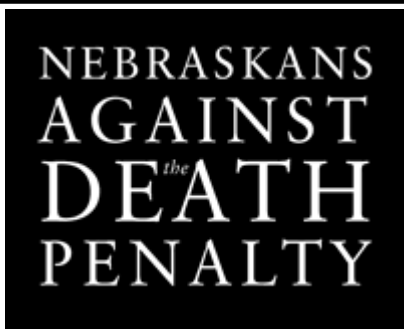
In February, ACLU Nebraska provided a copy of the Freedom Files DVD about the death penalty to every state senator. Several senators called later to thank us for the information.

Yet despite all this work, we still have the death penalty. Was it worth it? Yes.

Nebraska is now the only state in the entire country with execution on the books and no method to carry it out. This puts us in an excellent position to advocate for abolition in 2009. We will continue to call upon you to help us by emailing, writing and phoning your senator to express your opposition to executions.

Meanwhile, remember these lyrics from Sweet Honey in the Rock:

*"We kept on organizing,
we kept on teaching,
believing,
moving to a higher ground,
even though our hands were full of
slaughtered truth...
I'm gonna stay on the battlefield."*



TOOLKIT NOW ONLINE FOR ANTI DEATH PENALTY ACTIVISTS

Nebraskans Against the Death Penalty has developed a comprehensive toolkit with information to help you become an effective activist against the death penalty in Nebraska.

It contains the most commonly asked questions about the death penalty and identifies strategies you might try to spread the work about ending executions.

The toolkit is currently available on the ACLU Nebraska website while NADP is in the process of building a new website. Visit www.aclunebraska.org and click on the NADP logo (pictured above) on the front page to download the 22 page PDF manual.

NADP and ACLU Nebraska continue to work cooperatively on ending state-sponsored killing. If you want to invite a speaker to a class, civic group or faith community, contact either organization. NADP is located in Lincoln and can be reached at (402) 477-7767 or info@nadp.net. ACLU can be reached at (402) 476-8091 or at info@aclunebraska.org

ANNUAL DINNER 2008: A JAZZY NIGHT FOR CIVIL LIBERTIES



Montage played fabulous jazz tunes for the audience.



Board members Rachel Yamamoto and Leslie Seymore.



Legal Director Amy Miller presenting award to Omaha attorney Bassel El-Kasaby.



Member representatives of the award winner group Omahans for Justice Alliance: Cheryl Weston, Tristan Bonn and Charles Parks, Jr.



Board members Joe Brown and Christy Abraham, joined by member Cindy Brown.



Board member Jim Bender receives his award from Board President Alan Peterson.



ACLU Nebraska Thanks Rainbow Celebrations for Generous Donation

Rainbow Celebrations, the non-profit organization in charge of putting on Pride events in Omaha, chose ACLU Nebraska as one recipient for a donation of \$500 this spring.

ACLU board member Joe Brown accepted the check at an event held at Vincenzo's in the Old Market.

We appreciate the opportunity to continue partnering with Rainbow Celebrations in our work for GLBT equality!

ACLU NEBRASKA IN THE CLASSROOM

Educating and advocating for students' rights happens all year round in the ACLU office. Here are just a few examples of our work in the schools:

Student's Rights Manual Now Online: We created a manual for students this semester that is available as a PDF download on our website. It answers the most commonly asked questions for public school students. "Know Your Rights: A Student's Guide" can be found at www.aclunebraska.org under "Publications." Print it out and share it with the student in your life.

Freedom Files DVDs in School: We continue to send the 10-part DVD series of the ACLU Freedom Files to schools across the state for teachers to show in their classrooms. The topics include the Patriot Act, gay rights, the death penalty, and free speech rights. "Since each show is about 20 minutes long, I found it a perfect way to launch a conversation with my middle school students," wrote one teacher who borrowed the set for his class. If you are a teacher who wants to check out the DVDs, please contact the office at (402) 476-8091 or email us at info@aclunebraska.org and we will mail them at no charge.

Parents' Privacy Rights at the School: Sometimes we have to tussle with schools on behalf of students, unfortunately. We always try to resolve problems without filing a lawsuit first, and many of our cases are successfully negotiated short of the courthouse steps. For example, we got a call from parents with children at the Plattsmouth Elementary School just a day or two before Valentine's Day this year. Parents had been invited to attend the party to watch kids exchange cupcakes and cards, but two days before the party a new notice was sent home to each family. The parents were informed that if they wanted to come to the party, they had to fill out a permission slip allowing the school to conduct a background check and a credit history check. The form was to be brought to the party. "This was ridiculous," said one parent. "I would be attending the event without the investigation having been done yet, so why invade my privacy after the fact? And WHY does the school need to see my credit history?"

ACLU Nebraska shared the parents' concern for the privacy, and worried about the lack of any written rules. The school had not indicated what criteria would be used to deny admission to a parent, so serious due process concerns were raised. After a letter from ACLU Legal Director Amy Miller, the school backed down and announced the party would be open to all parents without any background checks though

(Continued p. 6)

MARRIAGE RIGHTS BEHIND BARS

Becky Rivero (50 years) and Terry Lewis (52 years) have been together as a couple for years, but it wasn't until they were convicted in a conspiracy to manufacture meth that their families learned they weren't married. They had children from previous marriages who believed Becky and Terry were married until their arrests. "It was embarrassing," said Becky. "Terry and I realized we needed to make things right." The meth manufacturing charge was the first offense for both Becky and Terry. They were each sentenced to 10-15 years in prison.

As first time non-violent offenders, both are very good candidates for parole eventually, but that's another reason why they're worried about getting married: the parole board may put restrictions on parolees' ability to have contact with a felon, unless that person is also a family member such as a spouse.

Becky is incarcerated at York Correctional Center for Women and Terry is at the Nebraska State Penitentiary in Lincoln. In 2006, the inmates began asking for permission to get married. The Nebraska Department of Corrections rules specifically allow inmate marriages, so at first Becky and Terry believed it would be no difficulty at all to have their ceremony performed. At first their caseworkers assured them that inmates got married all the time under the rules and it would just be a matter of working out the practical details.



Terry Lewis



Becky Rivero

Then the bombshell dropped: the prison refused to allow them permission to marry. One written response from the prison stated unequivocally: "Marriage while incarcerated is not a right." Yet this flies directly in the face of US Supreme Court decisions that specifically and unequivocally have held that marriage is a fundamental right, and that right extends to inmates. Other than this assertion, the prison has made no effort to explain why Becky and Terry can't marry. Apparently marriage ceremonies have taken place in the prison in the recent past, and the written rules do state marriages can be conducted.

Becky and Terry point out they don't expect any advantages to getting married while they're still incarcerated. Nebraska doesn't allow conjugal visits and they will continue to be prohibited from having direct contact during their time behind bars. They also are extremely flexible about how the ceremony itself should be carried out. "We're willing to be married on the phone or in person," said Becky. "Our families even are willing to help pay for transportation if we get married in person. All we want is to finally be man and wife in the eyes of the law."

"One irony here is the state's proclaimed enthusiasm for protecting marriage," said ACLU Nebraska Legal Director Amy Miller in a press statement. "Nebraska is so worried about encouraging marriage that it passed a state constitutional amendment with that goal just a few years ago. Here is a couple that wants to rehabilitate themselves and legalize their relationship, and the state is just refusing point blank to allow it without any explanation why."

Volunteer attorney James Beckmann of Lincoln filed suit in April in the District Court of Lancaster County, asking the court to order the prison to conduct the marriage in one fashion or another. The lawsuit alleges the prison's current prohibition violates Becky and Terry's constitutional rights, including their 1st Amendment religious rights and their 14th Amendment due process rights. The prison officials will have to respond this spring with their explanation for banning the marriage.



Mike Keefe, The Denver Post

("ACLU in the Classroom" continued from page 4)

the school board would begin considering passage of a written rule for the future. "This is the right result," said Miller. "The school has a legitimate concern about people coming into the school. Volunteers such as tutors do have to go through background checks because they are in positions where they are allowed to be alone with the children. But parents coming to a big event shouldn't have to hold up their private lives to scrutiny just to enjoy an event with their children."

Pledge of Allegiance: Another problem arising in the elementary schools, this time in Lincoln, was quickly resolved after ACLU contact with the Superintendent. A mother complained about Everett Elementary School beginning a new custom of daily recitation of the Pledge of Allegiance. "It seemed odd to me that the school didn't used to have the Pledge and now it does, but I could have lived with that," she said. The problem was that at least one teacher believed the kids could be forced to participate in reciting the Pledge. The teacher told the kids that if someone didn't stand and say the Pledge, he or she would have to go to "think time," a version of "time out." In "think time," the student is removed from the classroom to an empty room and instructed to sit and think about what they did wrong. The student is allowed back to the classroom when he or she can enunciate what they will do next time to improve themselves. "My religious and philosophical beliefs are deeply opposed to forcing speech from my little children," said our complainant.

After a letter to the Lincoln Public School Superintendent, ACLU received a written apology to the family as well as an assurance that all teachers had been brought in for re-training on free speech rights of students.

2008 LEGISLATIVE SESSION IN REVIEW

When the Unicameral adjourned in late April, it brought a close to over 60 bills designated as presenting serious civil liberties issues. Each year the board members who serve on our Legislative Committee designate which bills we will lobby on as well as indicating what position the staff should take. Executive Director Laurel Marsh and Legal Director Amy Miller are both registered lobbyists for ACLU Nebraska. Some of the bills this session were carried over from the 2007 legislature. Here's a highlight of some of the most important issues we worked on:

LB 205: Anti-bullying law: Passed. This law now requires every school district to have written policies designed to identify and prevent bullying. All sorts of kids can be subject to bullying, but statistics show it's a particular problem for GLBT kids, minority kids in a white school, and kids with disabilities. ACLU has supported this legislation for several years, and its passage is a great victory for students.

LB 467: New watchdog for county jails: Passed. The state Ombudsman's office handles complaints from inmates in state prisons, but there was no agency for inmates in county jails. This bill was in part a response to the ACLU Nebraska report issued in 2006 that outlined the gap in care for county jail prisoners, and extended the Ombudsman's jurisdiction to county jails. A great victory!

LB 470: Change in arrest records: Passed. In the past, an arrest that ultimately was dismissed would remain on people's records. A background check would show the old arrest even though the person was innocent and could be viewed with alarm by a future employer, yet there was no "pardons" process to get the old mistaken arrest off the books. This bill automatically removes arrests that are dismissed or that don't result in conviction.

LB 571: Adoption by same sex couples: Indefinitely postponed. Currently only married people can adopt children together. This has a particular impact on same sex couples who cannot get legally married, though it also bars siblings or other non-married people from adopting together

too. Although the legislative hearing on this bill presented both emotionally and scientifically compelling evidence of the need to protect all children through adoption, the Judiciary Committee failed to advance the bill to the floor. It is now a dead bill.

LB 843: Abolish juvenile life without parole: Indefinitely postponed. Nebraska is one of the states that still allows juveniles to be sentenced to die behind bars for a crime committed while they were still children. There is no minimum age for children facing this sentence. The bill would have placed maximum caps (50 years for older teens, 40 years for young kids) for children who commit serious crimes, thus abolishing the life without parole option. This bill also died in committee without being advanced. ACLU is committed to bringing it back with a coalition of other justice groups in the next session.

LB 911: REAL ID implementation: Passed with amendments. The federal government's push for each state to adopt a uniform ID was successfully defeated in Nebraska for another year! The bill was amended to remove all threatening aspects of REAL ID, and in the end an administrative change to how the Department of Motor Vehicles issues licenses was all that passed. ACLU no longer opposed the bill once these amendments were made.

LB 954: HIV testing change: Indefinitely postponed. HIV tests are currently administered after a patient consents to the test, since there are serious ramifications for anyone who tests positive. This bill would have allowed an HIV test to be administered to patients without even telling them the test was being done. ACLU opposed the bill for privacy concerns and for taking away decision making power from the patient. The bill was in committee when the session ended, thus killing the bill for now.

LB 1063: Abolition of the death penalty. Failed. See page 2 for a complete report on the disappointing result...and our determinedly optimistic plans for the future.



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Nebraskans
United

for equality, fairness, truth and diversity.

A deceptive petition drive is underway in Nebraska. The so-called “Nebraska Civil Rights Initiative” would change our state Constitution. Paid petition circulators from a California organization are now gathering signatures to put this initiative on the ballot in November. If passed, this amendment would:

- Prohibit Nebraska educational institutions and government agencies from the consideration of gender, race, ethnicity or national origin in a variety of publicly-sponsored programs and initiatives.
- Force Nebraska educational institutions to end important efforts to identify, encourage and recruit students into fields where they have traditionally been underrepresented, such as minorities and women in science and men in nursing, and would further end scholarships that consider gender and race.
- Hamper attempts to recruit and retain a diverse workforce in government agencies and public organizations, and a diverse faculty in public K-12 and higher education.

What’s at stake? Similar initiatives in other states have already had appalling results. In Michigan, recruitment and apprenticeship programs designed to increase opportunities for women and minorities in skilled trades were eliminated. Washington lost nearly \$5 million in tourism and convention revenue. Scholarships and youth programs were eliminated in California, including summer science programs for girls and outreach programs for minority teachers.

Nebraskans United has been formed to take a stand against amending our Constitution. The group includes churches, businesses, grassroots organization and concerned citizens. ACLU Nebraska has joined as a member organization. Learn more at www.NebraskansUnited.org and remember: if you’re approached by a petition circulator, **DECLINE TO SIGN.**