

Lethal Injections: What Does Tennessee Have to Hide?

When ACLU-TN learned that the state was beginning to set date for executions again, we sent a public records request asking for records describing the Tennessee Department of Corrections' procurement and use of pentobarbital to execute death row inmates.



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Tennessee has not executed an inmate since December 2009. In April 2011, federal law enforcement agencies seized Tennessee's supply of sodium thiopental over questions of whether it was illegally imported. Sodium thiopental was a sedative used along with two other drugs for lethal injections. Since April 2011, Tennessee and other states have been unable to procure a supply of the drugs.

In the spring of 2013, the Tennessee General Assembly added an exception to the Tennessee Public Records Act which purports to exclude records on the FDA or DEA status of the drug Tennessee will use to execute inmates or the name of the manufacturer or compounder.

In September, Tennessee chose a new lethal injection drug, pentobarbital, an anesthetic most commonly used to euthanize pets. The state then immediately scheduled two executions, the first set in January 2014, and moved to schedule ten more executions next year.

TDOC admits that it specifically waited until after the legislation passed before procuring the new drugs and scheduling executions. Shortly after hearing pentobarbital was being used for lethal injections, Danish manufacturer Lundbeck announced that it would ban import of the drug for such purposes. ACLU-TN is concerned that the drugs are once again being imported in violation of the law, have expired, or are being manufactured or compounded domestically, with little to no oversight from the FDA. Consequently, the drugs may not be effective in providing a painless death. We are awaiting a response to our open records request.

Memphis Students' Rights Summit a Huge Success

Over 350 Memphis-area students attended ACLU-TN's first Students' Rights Summit in Memphis. The summit was held in October as part of BRIDGES and MidSouth Peace and Justice Center's Gandhi-King Youth and Community Conference.

The goals of the summit were to help Shelby County youth understand the U.S. and Tennessee constitutions and their rights and responsibilities as engaged members of the community. Participants chose from interactive workshops outlining students' rights in areas including privacy, freedom of religion, freedom of speech and expression, juvenile justice, bullying, youth activism, LGBTQ equality, and interactions with law enforcement.



Kaleigh Thacker

Workshop leaders included Shelby County Commissioner Steven J. Mulroy, Tennessee Youth Court Program Coordinator Denise Bentley, Memphis Public Library Collection Development Manager Alan Stewart, SisterReach CEO Cherisse Scott, ACLU-TN board member Bruce S. Kramer, and members of the Memphis Branch NAACP's Youth Council.

Look for our Nashville students' rights conference in March 2014!

From the Executive Director...

By Hedy Weinberg

As the year draws to an end, I want to thank you for joining ACLU of Tennessee in our embrace of freedom and our pursuit of fairness, equality and justice. We had much to celebrate this year. Over 450 students engaged with ACLU-TN's youth programs. Despite a divided legislature, we passed legislation protecting Tennesseans against government surveillance. Nearly 35,000 people signed a petition to protect the free speech of Tennessee's journalists and animal rights activists. And, of course, ACLU's *Windsor* case against the Defense of Marriage Act ended with an historic victory.

But this past year has also been challenging. We confronted increasing assaults on our civil liberties in Tennessee, including government secrecy about execution drugs and protocol, censorship of students seeking safe schools, erosion of "street newspaper" vendors' freedom of the press, workplace discrimination against a nursing mother, bigotry toward immigrants and refugees, backlash against marriage equality and numerous attempts to deny religious freedom. This newsletter describes highlights from this quarter.

Such attacks are the result of a growing cultural polarization and partisanship. We know the year to come will bring its own challenges. When the 108th Tennessee General Assembly convenes in January, we expect to confront attacks on free speech, LGBT equality, immigrant rights, and religious freedom. We are also planning proactive measures to tackle "policing for profit" and bullying in schools. In addition, we will be mobilizing to defeat the November 2014 ballot initiative that will attempt to amend the state constitution to state there is no right to abortion, eroding women's right to access safe and legal reproductive health care.

As we look forward to 2014, we are confident that we will rise to the challenges ahead. We are now strategizing to tackle a range of issues with campaigns that employ advocacy, coalition-building, public education, legislative lobbying and litigation. But we can't do it alone. Please consider a year-end gift to the ACLU Foundation of Tennessee. With your support, we can realize liberty and justice in the public square, the courthouse, and the state legislature. Together we will change the landscape in Tennessee.

Wishing you a healthy, happy and civil-liberties-filled new year, *Hedy*



Protecting the Right to Breastfeed in Shelby County

ACLU-TN continues to fight workplace sex discrimination, most recently by protecting a Memphis emergency medical technician's right to breastfeed. Over the course of her career with the Memphis Fire Department, Anna Moran* had two children and she chose to breastfeed both. But her employer wasn't happy about it.

After returning from maternity leave after each birth, the fire department instructed Anna, in violation of state law, to pump in an unsanitary rest room open to the general public. At times, Anna had to clean the restroom facilities of urine and feces before pumping. The fire department also told her that taking time to pump every four hours was unreasonable and that if she was unavailable for service because of pumping, her pay would be docked. She was subjected to ridicule and derision by fellow employees and supervisors when she took time to pump.

When Anna filed a complaint with the U.S. Equal Employment Opportunity Commission, ACLU-TN cooperating attorney Maureen Holland successfully intervened on her behalf.

*Name has been changed

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Rev. Edwin Sanders II, Remziya Suleyman Honored at ACLU-TN Bill of Rights Celebration

On November 14, nearly three hundred ACLU-TN supporters gathered at the University Club in Nashville to honor the Reverend Edwin C. Sanders II and Remziya Suleyman.

Remziya, co-founder and director of policy and administration for the American Center for Outreach, received the 2013 Benjamin S. Pressnell Bill of Rights Award. In



2011 Remziya spearheaded a successful campaign to stop a bill that would have criminalized Tennessee Muslims who practice their faith. An activist for immigration reform, voting rights and religious freedom, she was named one of the “13 Progressive Faith Leaders to Watch in 2012” by the Center for American Progress.

In accepting the award, Remziya stated, “As a Muslim, as a woman, as an immigrant, as a refugee...I stand for those who continue to be marginalized, to be silenced, and to be told that they are nothing...I

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Defending Students’ Religious Freedom Statewide

The First Amendment is intended to protect religious freedom by ensuring that government, which includes public school officials, does not promote or endorse religious activities. In recent months, ACLU-TN has intervened on behalf of numerous families to protect their religious freedom at public schools.

The mother of a **Fayette County** elementary school student contacted ACLU-TN after religious texts were distributed during the school day. Her child felt compelled to take a Bible out of fear of ostracization by classmates and teachers. When she expressed her concerns to the school and school board, she was told, incorrectly, that, because her child was not required to take a Bible, the distribution did not violate her family’s rights. ACLU-TN sent a letter to the director of schools explaining that courts have repeatedly found that such distribution violates the Establishment Clause and asking that the practice cease. We are awaiting a response to our letter.



The parent of a **Marshall County** elementary school student contacted ACLU-TN to report an ongoing pattern of religious activity in the school, including distribution of religious texts in her child’s class during the school day and a school assembly that included prayers. The parent was told that if she does not want her child to participate, the child can sit in the hall. ACLU-TN wrote the Marshall County director of schools demanding an investigation into the allegations. The director responded that she would conduct an investigation, which is ongoing.

In addition, the mother of a **Polk County** kindergartener contacted us after the public school requested her permission for teachers to pray with her child at lunchtime. If the family opted out, she was told, her child would be sent out into the hall during the prayer. After ACLU-TN requested a copy of the prayer permission slip from the school, the mother reported that the lunchtime prayers had ceased.

The parents of a **Shelby County** kindergartener also contacted ACLU-TN to assist them in stopping their child’s teacher from leading students in daily prayer. Reportedly, after another teacher told the child’s teacher it was inappropriate and the principal instructed the teacher to stop, she instructed her class of five-year-olds to whisper the prayer so that others would not hear them. ACLU-TN asked the principal to take additional steps to stop these activities. We are awaiting written con-

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Bill of Rights Celebration, continued from p. 3

stand here because I stand on the shoulders of legends, many who are in this room today .. I will not sit down, I will not shut up, as I have been told before, because the sacrifices that generations made before me... [must] never [be] forgotten.”

Among those trailblazers is Reverend Sanders, Senior Servant and Founder of Nashville’s Metropolitan Interdenominational Church, who was honored with ACLU-TN’s Lifetime Achievement Award for his dedication to criminal justice reform and equal protection for the disenfranchised. Reverend Sanders has dedicated his life to the pursuit of equality and justice, particularly in challenging the War on Drugs and the mass incarceration of minority youth.

Reverend Sanders shared the story of once seeing the Statue of Liberty from the window of the national ACLU office. He jokingly asked, “Come on..., don’t you think this is over the top?” A staff member replied, “No, I had to have this office because...I wanted to be sure that I kept my eye on that statue... every day I find myself charged with the responsibility of making sure that nobody puts out that light.’...I would suggest to you that there... are people still trying to put out the light...in ways that would end what too many of us...take for granted... the justice that is reflected in the Bill of Rights...all of us have a responsibility to wake up every day and...make sure nobody put[s] out...the light.”

Proceeds from the event, as well as other gifts, support ACLU-TN’s efforts to keep that light burning in Tennessee.

Religion in Schools, continued from p. 3

firmation that the matter has been resolved.

Finally, in October, ACLU-TN sent letters to 134 school superintendents **across the state** in response to public reports of school-sponsored prayer in numerous public school football programs. The letter provided information on the First Amendment’s requirement that public schools refrain from endorsement of religion and urged schools to commit to protecting religious freedom for all students.

ACLU-TN will remain vigilant to ensure that Tennessee’s public schools do not sponsor and support unconstitutional religious activities. Indeed, it is this very limitation of government interference in religion that allows individual religious liberty, including that of students and their families, to thrive.