



LEGAL DEPARTMENT

ACLU of Kansas & Western Missouri

3601 Main Street
Kansas City, MO 64111
Tel. (816) 756-3113
Fax (816) 756-0136

By E-mail Only: contact rcpd@rileycountypolice.org

June 5, 2013

Brad Schoen, Director
Riley County Police Dept.
1001 South Seth Child Road
Manhattan, KS 66502-3115

Re: Jail Ban on Newspapers & Magazines
Our File No.:13-0005960

Dear Director Schoen:

As you know, the ACLU of Kansas & Western Missouri recently requested and obtained the Riley County Jail's policies and Inmate Handbook as part of our summer project on Kansas jail policies. Section 8(E)(2) of the Riley County Jail Inmate Handbook provides, in pertinent part, that "[n]ewspapers and magazines are also not allowed in the facility and will be placed in your property." Banning newspapers, magazines, and other periodicals from the jail violates the First Amendment to the United States Constitution.

In an unpublished decision, the Tenth Circuit has held that an "absolute ban on newspapers does not constitute a "valid, rational connection" between the prison regulation and the legitimate governmental interest put forth to justify it[.]" *Thomas v. Leslie*, 176 F.3d 489, 1999 WL 281416 (10th Cir. 1999), quoting from *Turner v. Safley*, 482 U.S. 78, 89 (1987).

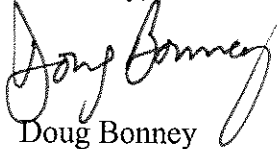
Many other courts have also struck down blanket bans on newspapers in jails. *See, e.g., Wilkinson v. Skinner*, 462 F.2d 670, 673 n. 5 (2nd Cir. 1972) ("refusal to deliver a newspaper would ordinarily be interference with appellant's first amendment rights"); *Payne v. Whitmore*, 325 F. Supp. 1191, 1993 (N.D.Cal.1971)(First Amendment guarantees inmates the right to receive newspapers and magazines); *United States ex rel. Manicone v. Corso*, 365 F. Supp. 576, 577 (E.D. N.Y. 1973) (first amendment prohibits complete ban on news); *Mitchell v. Untreiner*, 421 F. Supp. 886, 895 (N.D.Fla.1976) (failure to permit inmates to read daily newspaper denied First Amendment freedom of speech, association, and right to be informed citizens in democratic society); *Hutchings v. Corum*, 501 F.Supp. 1276, 1299 (W.D. Mo. 1980)("absolute denial of access to newspapers violate[d] the inmates' First Amendment guarantees"); *Kincaid v. Rusk*, 670 F.2d 737, 744 (7th Cir.1982) (total ban on newspapers unjustifiable when hazards of newspaper possession could as well be caused by reading material detainees were permitted to have); *Mann v. Smith*, 796 F.2d 79, 82-83 (5th Cir. 1986) (county jail's policy of banning newspapers and magazines violated a pretrial detainee's First Amendment rights where the state failed to show the ban served a legitimate government objective); *Green v. Ferrell*, 801 F.2d 765, 772 (5th Cir.1986) (jail's prohibition on newspapers violated First Amendment); *Sizemore*

Brad Schoen, Director
June 5, 2013
Page 2

v. Williford, 829 F.2d 608, 610 (7th Cir. 1987) (absent restrictions based on legitimate goals of confinement, prison inmates retain First Amendment right to receive and read newspapers); *Spellman v. Hopper*, 95 F. Supp. 2d 1267 (M.D. Ala. 1999) (absolute prohibition on subscription magazines and newspapers applied to administrative segregation inmates in Alabama not reasonably related to legitimate penological goals); *Avery v. Ferguson*, 2010 U.S. Dist. LEXIS 101864, 43-44 (W.D. Ark. Sept. 3, 2010)(jail newspaper ban unconstitutional).

Based on this clearly established case law, I request that you immediately change the jail's policy regarding newspapers and magazines. If you have not advised me that you have dropped the policy banning newspapers and other periodicals from the jail by 9:00 a.m. on Friday, June 14, 2013, I will begin preparing to litigate this issue. I would be glad to discuss this issue with you or the county's lawyer if you wish.

Sincerely,

A handwritten signature in cursive script, appearing to read "Doug Bonney".

Doug Bonney
Chief Counsel & Legal Director
Direct Dial: (816) 994-3311