

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

<b>ELAINE BLANCHARD, et al.</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>ACLU OF TENNESSEE, INC.,</b>	)	<b>Case No. 2:17-cv-02120-jpm-DKV</b>
	)	
<b>Intervening-Plaintiff</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>CITY OF MEMPHIS</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**ACLU OF TENNESSEE, INC.’S RESPONSE  
TO DEFENDANT’S MOTION TO DISMISS**

Intervening Plaintiff, ACLU of Tennessee, Inc. responds to Defendant’s Motion to Dismiss its Intervening Complaint, requesting that the Court deny Defendant’s motion.

**INTRODUCTION**

Defendant filed a Motion to Dismiss Intervening Plaintiff, ACLU of Tennessee, Inc.’s (ACLU-TN) Complaint, raising issues of standing and jurisdiction. Defendant’s standing claim is simply that ACLU-TN is not an original party to the Order Judgement and Decree (the “Decree”) entered by this Court in 1978. Instead a long defunct corporate entity whose name appears nowhere in the original complaint is the original party. Defendant’s second argument is that this Court lacks subject matter jurisdiction to enforce of the 1978 Decree. Defendant arrives at

this conclusion through a tortured reading of the Decree's reservation of jurisdiction and on the age of the decree.

## STATEMENT OF FACTS

The 1976 lawsuit filed against several defendants sought to put a stop to police practices involving political intelligence gathering regarding people exercising their First Amendment right to free speech. *Kendrick v. Chandler*, Civil Action No. C76-449 attached as Exhibit A [hereinafter, "Kendrick Complaint"]. The end result of the suit was a September 14, 1978 Order, Judgement and Decree that "prohibit[s] the defendants and the City of Memphis from engaging in law enforcement activities which interfere with any person's rights protected by the First Amendment to the United States Constitution." Order, Judgement & Decree, Attached as Exhibit B.

The Decree generally forbids the Defendant from interfering with any person's right to free speech. Decree § A. More specifically, it prohibits the Defendant from engaging in "political intelligence," defined as "the gathering, indexing, filing, maintenance, storage or dissemination of information, or any other investigative activity, relating to any person's beliefs, opinions, associations or other exercise of First Amendment rights." *Id.* § B(4), C(1). The Decree includes the use of electronic and covert surveillance for the purpose of gathering political intelligence. *Id.* § D, F. Covert surveillance includes employing informants or undercover officers to "infiltrate or pose as a member of any group or organization exercising First Amendment rights." *Id.* § F.

In addition to the bans on political intelligence gathering, the Decree prevents harassing a person exercising First Amendments rights or engaging in any action which is intended to deter, or may have the effect of deterring, any person from engaging in free speech. *Id.* § F(1)(2). The Decree gives as an example:

The City of Memphis shall not, at any lawful meeting or demonstration, for the purpose of chilling the exercise of First Amendment rights or for the purpose of maintaining a record, record the name of or photograph any person in attendance, or record the automobile license plate numbers of any person in attendance.

*Id.* § F(2).

On February 17, 2017, the City of Memphis released documents listing people who must be escorted by police when visiting City Hall. (Complaint, Docket No. 1, Ex. 2.) Four of the listed individuals filed suit on February 22, 2017, in the Court alleging that the Defendant is in violation of the Decree.

The Complaint alleges that those included on the list had participated in protests, rallies or other free speech activities in the city. (Complaint ¶ 12.) On information and belief, many of those listed had no criminal record or history of causing disturbances at City Hall. The Complaint further alleges that the “Memphis Police Department has engaged in willful and wanton conduct violating the consent order:” Complaint p. 1.

Examples of the alleged conduct included video recording participants at lawful protests, including a protest the day before the Complaint was filed. (Complaint ¶ 12.) The Complaint also asserts that the Defendant employs software that surveils social media posts in violation of the Decree. (Complaint ¶ 14). Use of

such software to collect information on free speech activities would violate the Decree's ban on electronic surveillance, as well as its more general prohibitions on gathering political intelligence and interfering with First Amendment activities.

## ARGUMENT

Defendant filed its Motion to Dismiss Intervening Complaint, presenting two grounds for dismissal under Article III of the Constitution and Fed. R. Civ. R. 12(b)(1). Defendant argues that ACLU-TN lacks standing to enforce the Decree because it was not an original party to the Kendrick Complaint. Instead, Defendant believes that an entity known as the West Tennessee Civil Liberties Union, Inc. was the original party. Second, Defendant argues that the Court lacks subject matter jurisdiction to entertain the enforcement action brought by ACLU-TN and the other Plaintiffs.

### **A. ACLU OF TENNESSEE WAS AN ORIGINAL PARTY TO THE 1976 LAWSUIT AND HAS STANDING TO PURSUE ITS CLAIMS ASSERTED IN THE INTERVENING COMPLAINT.**

For a court to have jurisdiction over a “case” or “controversy”, it must be established that the party bringing the case before the court has standing to do so. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). There are three elements that must be met to establish standing; (1) the plaintiff must suffer “injury in fact”, (2) the injury must be “fairly traceable to the challenged conduct of the defendant”, and (3) it must be “likely” that the injury will be “redressed by a favorable decision”. *See id.* at 560-61. It is the burden of the party invoking federal jurisdiction to establish these elements. *See id.* at 561. These elements must be

supported to the same degree "as any other matter which the plaintiff bears the burden of proof", which varies at different stages of litigation. *See id.* At this stage, "general factual allegations of injury resulting from the defendant's conduct may suffice" to establish standing. *See id.*

Defendant's motion represents a somewhat atypical standing challenge. Defendant essentially is arguing that ACLU-TN lacks standing because it is not an original party to the Kendrick Complaint and, therefore, has suffered no injury for Defendant's violation of the Decree issued in that case. The requirement of standing then rests on whether ACLU-TN was an original party,

The ACLU-TN was formed in 1968 as the Tennessee Affiliate for the American Civil Liberties Union, Inc. ("ACLU"). *See* Affidavit of Eric Lee Sirignano, attached as Exhibit C, at ¶ 8, 9; Charter of Incorporation for ACLU of Tennessee, Inc., attached as Exhibit D<sup>1</sup> [hereinafter, "ACLU-TN Charter"]. Before its formation, three other corporate entities had been created as affiliates of the ACLU. The East Tennessee Civil Liberties Union, Inc. was formed on May 23, 1966. The Middle Tennessee Civil Liberties Union, Inc. was formed on October 13, 1966. The West Tennessee Civil Liberties Union, Inc. was formed on April 18, 1967. *See* Affidavit of Sarah Elizabeth Abbott and attached Filing Information from the Tennessee Secretary of State, attached as Exhibit E.

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<sup>1</sup> The true and correct copy of the ACLU-TN Charter is attached to this response as Exhibit D. The original document is sealed and signed and therefore self-authenticating under Fed. R. Evid. 902(a). Sirignano Aff. at ¶9.

A request for all documents of the West Tennessee Civil Liberties Union, Inc. filed with the Tennessee Secretary of State produced the Charter and a letter dated March 17, 1983 stating that the corporation has been dissolved for failing to file annual reports with the Department of Revenue as required. See March 13, 2017 Tennessee Secretary of State Document Receipt and records, attached as Exhibit F. According to its Charter of Incorporation, the West Tennessee Civil Liberties Union, Inc. was formed as a general welfare corporation. Its purpose was to further the objectives of the ACLU. No other filings or documents were produced by the Secretary of State.

The ACLU-TN was formed on September 18, 1968 as a non-profit corporation. According to its Charter, it was formed specifically to consolidate the operations of the three corporate entities into one statewide corporation that would serve as the affiliate for the national ACLU. ACLU Charter p. 1, ¶ 3. The Charter specifically states that ACLU-TN would “consolidate the affairs and activities of the previously existing” Middle and East Tennessee entities. *Id.* at p. 1, ¶ 1. The ACLU-TN would “absorb at a future time” the West Tennessee Civil Liberties Union, Inc. *Id.* at p. 1, ¶ 2.

**1. The early business structure of the ACLU-TN conducted its operations through several Chapters around the state.**

During these early years in operation, ACLU-TN was structured as a confederation of local chapters. According to ACLU-TN’s original by-laws, [l]ocal chapters may be established as branches subordinate to the ACLU of Tennessee, Inc. by the Board of Directors in areas where membership and interest justify.” *See*

By-Laws of the American Civil Liberties Union of Tennessee, Inc. at Art. IX, § 1, attached as Exhibit G<sup>2</sup>; Sirignano Aff. at ¶ 8(b), 10. The Chapters were given the “authority to direct and govern activities of the ACLU of Tennessee, Inc. in their respective areas subject to the by-laws and policies of the ACLU of Tennessee, Inc.” *Id.* at Art. IX, § 2. Each Chapter’s president served as a member of the ACLU-TN’s Board. Additionally, each Chapter was entitled to elect a member to the Board of Directors for every fifty members. *Id.* at Art. VII, § 2.

The By-Laws were revised in 1973, prior to the filing of the Kendrick Complaint. The language regarding chapter formation changed slightly but the language regarding their authority to direct and govern activities of the ACLU-TN remained the same. *See* 1973 By-Laws of the American Civil Liberties Union of Tennessee, Inc., Art. VIII, § 2, attached as Exhibit H<sup>3</sup> [hereinafter, “1973 By-laws”]; Sirignano Aff. at ¶ 8(c). The composition of the Board of Directors from the Chapters changed slightly. The President of each Chapter remained on the board, and each Chapter would select one board member “for each 25 members up to 100 members, and one additional Director for each 50 members above 100.” *Id.* at Art. VII, § 2.

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<sup>2</sup> A true and correct copy of the original By-Laws of the American Civil Liberties Union of Tennessee, Inc. found in ACLU-TN files is attached. The document can be authenticated pursuant to Fed. R. Evid. 901(a)(8) as an ancient document. *See* Sirignano Aff. at 10, 11, 12.

<sup>3</sup> A true and correct copy of the original 1973 By-Laws of the American Civil Liberties Union of Tennessee, Inc. found in ACLU-TN files is attached. The document can be authenticated pursuant to Fed. R. Evid. 901(a)(8) as an ancient document. *See* Sirignano Aff. at 10, 11, 12.

By 1975, ACLU-TN was operating with six chapters: Middle Tennessee, West Tennessee, Oak Ridge Area, Knoxville, Franklin County, and Chattanooga. *See* American Civil Liberties Union of Tennessee Board of Directors Minutes of the Meeting of October 4, 1975, attached as Exhibit I<sup>4</sup>; Sirignano Aff. at ¶ 8(d).

**2. ACLU-TN was the actual party in interest in Kendrick v. Chandler because the West Tennessee Civil Liberties Union was operating as a Chapter under the ACLU-TN.**

The Kendrick Complaint specifically refers to Plaintiff American Civil Liberties Union of West Tennessee as a Chapter of the ACLU-TN.

The American Civil Liberties Union of West Tennessee, Inc. (“WTCLU”) is a **Chapter** of the American Civil Liberties Union of Tennessee, Inc., which is an affiliate of the American Civil Liberties Union, all being non-profits, non-partisan organizations dedicated to the preservation of citizens’ rights and liberties guaranteed by the constitution and laws of the United States. The West Tennessee **Chapter** is comprised of approximately five hundred members residing in the Western District of Tennessee, each of whom is dedicated to and involved in activities and conduct protected by the First, Fourth, Fifth, Sixth, ninth and Fourteenth Amendments to the Constitution of the United States, and the corporate entity itself is dedicated to and involved in such constitutionally protected activities.

Kendrick Complaint ¶3(c) (emphasis added). The plain language of the Kendrick Complaint states that the American Civil Liberties Union of West Tennessee was operating as part of the ACLU-TN. The By-Laws in place at that time specifically allowed the Chapters to conduct this type of business on behalf of the corporation.

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<sup>4</sup> A true and correct copy of the original American Civil Liberties Union of Tennessee Board of Directors Minutes of the Meeting of October 4, 1975 found in ACLU-TN files is attached. The document can be authenticated pursuant to Fed. R. Evid. 901(a)(8) as an ancient document. *See* Sirignano Aff. at 10, 11, 12.



*See* 1973 By-Laws, at Art. VIII, § 2. ACLU-TN documents show that at the time, the West Tennessee Chapter was an active part of ACLU-TN. *See* Exhibit G.

What is entirely absent from the Kendrick Complaint is any mention of the West Tennessee Civil Liberties Union, Inc. Defendant's argument that the West Tennessee Civil Liberties Union, Inc. was somehow a party to the action rests entirely on the use in the Complaint of the acronym "WTCLU." While the acronym would certainly fit an entity such as West Tennessee Civil Liberties Union, Inc. the context in which it is used and the language of the Complaint state that it is referring to "a Chapter" of ACLU-TN and not to another separate legal entity. Nor was the West Tennessee Chapter operating as a subsidiary corporation. The Charter of the ACLU-TN states that the corporation's purpose was to absorb the activities of the three regional entities created in 1966 and 1967. The relationship shown in the attached Board of Directors Minutes and in the Kendrick Complaint itself demonstrates that that goal was achieved by 1976. The West Tennessee Chapter was a part of ACLU-TN and brought litigation under the authority granted to it by ACLU-TN By-Laws. While the charter system of corporate management has fallen by the wayside in recent years, the ACLU-TN persists and is the proper party to the 1978 Decree. Therefore, ACLU-TN has standing to enforce the Decree.

**B. THIS COURT HAS SUBJECT MATTER JURISDICTION OVER THIS MATTER BECAUSE IT RETAINED ITS JURISDICTION IN THE ORIGINAL CONSENT ORDER AND THE INJUNCTIVE NATURE OF CONSENT ORDERS GUARANTEES THE COURT INHERENT JURISDICTION.**

Federal courts are courts of limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). For a federal court to hear a case, the party

asserting jurisdiction must establish that the case is within the court's jurisdiction. *See id.* The Court here has subject matter jurisdiction of the long-standing Decree because it reserved its jurisdiction and even if it had not, the injunctive nature of the Decree would guarantee the Court inherent jurisdiction.

**1. The Court explicitly retained its jurisdiction in the original Decree.**

Generally, the doctrine of ancillary jurisdiction arises in one of two situations: “(1) to permit disposition by a single court of claims that are, in varying respects and degrees, factually interdependent”, and “(2) to enable a court to function successfully, that is, to manage its proceedings, vindicate its authority, and effectuate its Orders.” *Kokkonen*, 511 U.S. at 379-80. In *Kokkonen*, the Supreme Court seems to suggest that a claim may be ancillary if a prior decree expressly reserves jurisdiction over the matter. *See id.* (Stating that jurisdiction in the *Jullian* case was based on the express reservation to adjudicate claims within that case).

Here, this Court expressly reserved jurisdiction in the original Decree under Section M, entitled “Retention of Jurisdiction”. Decree, ¶ M. In that section, this Court stated that:

The Court will retain jurisdiction of this action, including any issue which might arise regarding payment of attorneys' fees to counsel for plaintiffs, pending disposition of all matters contained in this Decree and for the purpose of issuing any additional order required to effectuate this Decree.

*Id.* (emphasis added). The Defendant attempts to argue that this section is a limit of what the Court will retain jurisdiction over; specifically that the Court only intended to retain jurisdiction over the three issues explicitly stated in this section.

(Memorandum of Law in Support of Defendant's Motion to Dismiss, p. 8).

Defendant's interpretation of the Decree does not comport with the plain language of this section. The Court explicitly states that it would "retain jurisdiction of this action, *including* . . ." the three stated issues. Decree ¶ M. The use of the word "including" indicates that these three issues are meant to serve as a floor, not as a ceiling. A list that is preceded by the word "including" typically does not mean that the list is complete but is only partial and nonexclusive. *In re Girtoh, Oakes & Burger, Inc.*, No. 04-8052, 2005 WL 1513114 (B.A.P. 6th Cir. June 22, 2005). Had this Court intended to set a ceiling on this issue, it would have used terms limiting language, not the more expansive "including".

This plain language interpretation is consistent with the *Kokkonen* ruling. One of the instances where a court may maintain ancillary jurisdiction is when it will enable the Court to "vindicate its authority and effectuate its Orders". *Kokkonen*, 511 U.S. at 379-80. The Plaintiffs allege that the City of Memphis violated the Decree, which was issued by the Court and which the Court expressly retained jurisdiction over. The only way for the Court to "vindicate its authority and effectuate its Orders" is to exercise subject matter jurisdiction over its own Decree.

Additionally, Defendant goes beyond the scope of the Decree by reading a time limit into the original order. (Memo in Support of Defendant's Motion, p. 10). There is nothing in the Decree to suggest that any of the original parties intended to impose any sort of time limit on the provisions within the Decree. Instead the language is very plain and broad. For example, the order repeatedly states that

“[t]he defendants and the City of Memphis *shall not*” perform various types of surveillance, harass or retaliate against individuals or maintain certain files.

Decree ¶¶ C, D, E, F, H, I, J. These are not acts that would imply a time limit. The offending conduct in 1976 is not less offending because of the passage of time. The forward-looking nature of the Decree is further supported by the fact that it provides “prospective relief only.” *Id.* at ¶ L. Prospective relief is, by definition, relief that is “looking forward” or “contemplating the future”. *Black’s Law Dictionary* 1222 (10th ed. 1990). To argue that the Decree did not reach into the future when the only relief provided was operative in the future is an absurd reading of the plain language.

The Decree also sets forth specific procedures that must be followed in cases where police criminal investigations may interfere with protected speech. *Id.* at ¶ G. The Decree imposed specific limitations and specific procedures on Defendants. The imposition of these limitations and procedures would be meaningless if the requirement that they be followed lapsed after some indeterminate and arbitrary passage of time.

The Decree does not state that it expires at some point. To read such a time limit in would go beyond its four corners. Additionally, it is important to note that the City of Memphis was one of the parties bound in the Decree. It has only been roughly 40 years since the Decree, which is far from “perpetuity” especially for a municipal entity such as a city with a potentially infinite life.

The Defendant argues that to enforce the Decree in perpetuity, “it must contain specific language to that effect”. This argument is completely unfounded and the Defendant provides no precedent to support this notion. In *Jansen*, the parties entered into an order that could be dissolved once the “objectives of the decree” had been achieved. *See Jansen v. City of Cincinnati*, 977 F.2d 238, 244 (6th Cir. 1992). In another case, *ITT Continental*, the parties entered into a consent decree that prohibited Continental from acquiring interest of bread-related companies for ten years. *ITT Continental*, 420 U.S. at 288. These cases are merely examples of orders where parties decided to impose time constraints on their agreements.

The Decree in question simply does not contain anything, within its four corners, to suggest that the parties intended for it to expire at some point in time or once certain conditions had been met. The Decree has not been “dormant” as the Defendant suggests. Rather, it has actively bound the City of Memphis and the parties within it for the past forty years. In 1978, this Court expressly reserved its jurisdiction over this matter, and thus has the proper subject matter jurisdiction today.

**2. Even if the Court did not preserve its jurisdiction, the Court has inherent subject matter jurisdiction because of the injunctive nature of consent orders.**

Orders or decrees entered into by the consent of the parties are unique in that they have the “attributes of both a contract and judicial act.” *Williams v. Vukovich*, 720 F.2d 909, 920 (6th Cir. 1983). A consent order is an agreement that parties entered into voluntarily and preserves the bargained-for positions of the parties. *See id.* In this respect, a consent order is much like a contract and needs no judicial

intervention to be effective. *See id.* However, a consent order is also a “final judicial order.” *See id.* It carries with it the weight of a court order and, once approved, operates as an injunction. *See id.*

The injunctive nature of a consent order “*compels* the court to: (1) *retain jurisdiction over the decree during the term of its existence*; (2) protect the integrity of the decree with its contempt powers; and (3) modify the decree should “changed circumstances” subvert its intended purpose.” *Id.* (emphasis added). As applied here, this means that the Court must retain jurisdiction over the Decree. The court has the inherent power to enforce its own orders. *See Kokkonen*, 511 U.S. 376-77. Since the Decree is an order of the court, the court retains inherent jurisdiction over alleged violations of that order because of its injunctive nature. *Williams*, 720 F.2d at 920.

## CONCLUSION

For the above reasons, Plaintiff requests that the Court deny the Defendant’s Motion to Dismiss.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 5, 2017, a true and correct copy of the foregoing document and the above-described exhibits has been served via ECF to:

Attorneys for Defendant, City of Memphis

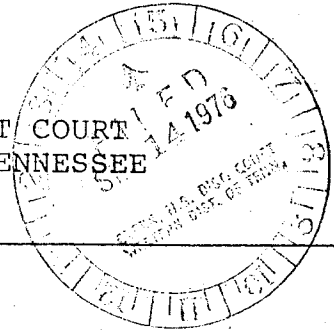
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION



CHAN KENDRICK, MIKE HONEY,  
JOHN DOE and the  
AMERICAN CIVIL LIBERTIES UNION  
IN WEST TENNESSEE, INC.,

Plaintiffs,

vs.

NO. C 76-449

WYETH CHANDLER, individually and  
in his official capacity as Mayor  
of the City of Memphis, Tennessee, and  
W. O. CRUMBY, individually and as  
Chief of Police and acting Director  
of Police of the City of Memphis,  
Tennessee, P. T. RYAN, individually  
and as Captain of the Intelligence  
Section of the Memphis Police Department,  
GEORGE W. HUTCHISON, individually and  
as Deputy Chief of Operations of the  
Memphis Police Department,

Defendants.

C O M P L A I N T

Come now the plaintiffs and for their cause of action  
against the defendants allege and state as follows:

I.

JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to  
28 U.S.C. §§1331 and 1343 as well as under 42 U.S.C. §§1983,  
1985, 1986 and 1988 in conjunction with rights secured by  
the First, Fourth, Fifth, Sixth, Ninth and Fourteenth  
Amendments to the Constitution of the United States; this  
Court also has pendent jurisdiction over causes of action  
arising under the laws of the State of Tennessee. The  
amount in controversy exceeds \$10,000, exclusive of interest  
and costs.

II.

CIVIL ACTION

2. This is a civil action for declaratory and injunctive  
relief and for monetary damages.



III.

PARTIES

3. Plaintiffs:

(a) Chan Kendrick is a citizen of the United States and a resident of Memphis, Shelby County, Tennessee, and is the Executive Director of the American Civil Liberties Union of Tennessee, Inc. and has been actively engaged in activities protected by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the Constitution of the United States, and who intends to continue in such activity in the future. On information and belief, plaintiff Kendrick alleges that he was the subject of unlawful surveillance by the Memphis Police Department "Domestic Intelligence Unit."

(b) Mike Honey is a citizen of the United States and a resident of Washington, District of Columbia, where he is Southern Director of the National Committee Against Repressive Legislation (NCARL). Mr. Honey was formerly a resident of Memphis, Shelby County, Tennessee, and at such time was associated with NCARL and at all pertinent times was actively engaged in activities protected by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the Constitution of the United States, and intends to continue in such activity in the future. Plaintiff Honey alleges that he was the subject of unlawful surveillance by the Memphis Police Department "Domestic Intelligence Unit" and that the defendants maintained a file on him.

(c) The American Civil Liberties Union of West Tennessee, Inc. ("WTCLU") is a Chapter of the American Civil Liberties Union of Tennessee, Inc., which is an affiliate of the American Civil Liberties Union, all being non-profit, non-partisan organizations dedicated to the preservation of citizens' rights and liberties guaranteed by the constitution and laws of the United States. The West Tennessee Chapter is comprised of approximately five hundred members.

residing in the Western District of Tennessee, each of whom is dedicated to and involved in activities and conduct protected by the First, Fourth, Fifth, Sixth, Ninth and Fourteenth Amendments to the Constitution of the United States, and the corporate entity itself is dedicated to and involved in such constitutionally protected activities. The WTCLU, and its members intend to continue such activities in the future. On information and belief, the WTCLU alleges that it has been the subject of unlawful surveillance by the Memphis Police Department "Domestic Intelligence Unit."

(d) John Doe is a citizen of the United States whose true name and identity is unknown because the defendants have destroyed the records and evidence necessary to disclose his true name and identity. John Doe represents all those persons and/or organizations who were engaged in conduct and activities protected by the First, Fourth, Fifth, Sixth, Ninth and Fourteenth Amendments to the Constitution of the United States. John Doe intends to continue in such activity in the future.

4. Defendants:

(a) The defendant Weyth Chandler is sued individually and in his official capacity as the Mayor of the City of Memphis and is responsible for the administration and control of the Memphis Police Department.

(b) The defendant W. O. Crumby is sued individually and in his official capacity as Chief of Police and acting Director of the Memphis Police Department.

(c) The defendant George W. Hutchison is sued individually and in his official capacity as Deputy Chief of Operations of the Memphis Police Department.

(d) The defendant P. T. Ryan is sued individually and in his official capacity as head of the Domestic Intelligence Unit, a section of the Memphis Police Department.

IV.

CLASS ACTION

5. This action is brought on behalf of the individual plaintiffs and on behalf of all persons similarly situated pursuant to Rule 23(a) of the Federal Rules of Civil Procedure and is maintainable under Rules 23(b)(1)(A), 23(b)(2) and 23(b)(3).

(a) The plaintiffs represent a class of all individuals and organizations who have engaged in constitutionally protected activity and conduct, and who have been subjects of investigation by the Domestic Intelligence Unit of the Memphis Police Department.

(b) The plaintiffs represent a class of all citizens and organizations of Memphis who wish to exercise their rights under the First Amendment to engage in lawful political expressions, associations and assembly without being the objects of covert and overt surveillance and intelligence by agents, servants, employees and informants of the defendants and without becoming the subjects of dossiers, reports and files maintained by the defendants.

(c) Upon information and belief the number of such persons are so numerous that the joinder of all members of the class is impractical. The total number and identity of the class members is known only to the defendants.

(d) There are common questions of law and fact affecting all members of the class and said common questions predominate over any questions affecting the individual members to such a degree that a class action is the only practical method available for the fair and efficient adjudication of this controversy.

(e) The prosecution of separate claims by the individual members of the class would constitute a burden on the vindication of their rights and create a risk of

inconsistent or varying adjudications which would establish incompatible standards for the defendants' conduct. The claims of the representative parties have the same legal and factual basis as the claims of the members of the class and the defendants have acted on identical grounds with respect to all the members of the class and common relief is sought. Furthermore, the plaintiffs will fairly and adequately protect the interests of the class.

V.

FIRST CAUSE OF ACTION

6. Upon information and belief, the Memphis Police Department in or about 1965 established a Domestic Intelligence Unit whose purpose was to investigate and maintain files upon citizens engaged in non-criminal, constitutionally protected activities which were thought to be "subversive" and/or advocating unpopular or controversial political issues. See Exhibit "A."

7. Upon information and belief the defendants gathered, maintained and held in their possession, custody and control, files, records and reports that contained unverified information and gossip which related exclusively to the exercise of lawful and peaceful activities. Such files, records and reports were collected in violation of the First, Fourth, Fifth, Ninth and Fourteenth Amendments.

8. Upon information and belief, said files, records and reports served no lawful or valid law enforcement purpose and contained:

(a) information on citizens who were never suspected and/or accused of criminal conduct;

(b) information on citizens who may or may not have been suspected of criminal conduct but which was obtained, gathered and collected by unlawful means, including, but not necessarily limited to, the improper use of informants, illegal, improper and unwarranted surveillance and interception

of oral and/or wire communication and other sophisticated forms of surveillance which contravene federal and state constitutional and statutory rights;

(c) information on citizens who have or have not been accused or suspected of criminal conduct but which has or may have been disseminated to other parties, persons, agencies and/or institutions having no legitimate law enforcement need for the information;

(d) information on citizens who have or have not been accused or suspected of criminal conduct but which is knowingly or patently inaccurate and/or erroneous and/or unverified or unverifiable and which was gathered and collected in total disregard for the truth.

9. By letter dated August 15, 1976, Eric Carter, a former resident of Memphis and president of the student body at Memphis State University and a member of the Vietnam Veterans Against the War, requested that the defendants grant him permission to see the file maintained on him by the Domestic Intelligence Unit. Said request was repeated during the following two weeks. Prior to the Police Department's legal advisor ruling on whether Mr. Carter had the legal right to see his file, and without prior approval of the Police legal advisor, the defendants physically destroyed the file by incineration. The defendant Hutchison, on information and belief, admitted that he personally reviewed Mr. Carter's file and that it contained no information indicating any criminal activity on Carter's part. See Exhibit "A."

10. Subsequently, it was revealed by the defendants that they maintained Domestic Intelligence Unit files on persons other than Mr. Carter.

11. On information and belief, at least two members of the Memphis City Council requested that the defendant Chandler refrain from destruction, alteration or dissemination

of the files maintained by the Domestic Intelligence Unit pending an investigation by the Council's Law Enforcement Committee as to the scope, extent and purpose of the Domestic Intelligence Unit. See Exhibit "A."

12. Prior to 2:30 p.m. on September 10, 1976, the plaintiff Chan Kendrick, individually and in official capacity as Executive Director of the American Civil Liberties Union of Tennessee, and plaintiff WTCLU, requested that the defendants not destroy, alter or disseminate any of the files maintained by the Domestic Intelligence Unit.

13. On information and belief, it is alleged that sometime prior to 11:30 a.m. on September 10, 1976, the defendants Chandler, Crumby, Ryan and other persons unknown to the plaintiffs met and determined to destroy all files maintained by the Domestic Intelligence Unit and to disband said unit. Subsequently, the defendant Chandler held a press conference and announced the aforementioned decisions.

14. Immediately thereafter, the plaintiffs WTCLU and Chan Kendrick obtained a temporary restraining order from this Court enjoining the defendants Chandler and Crumby and those persons in active concert with them from destroying, altering or in any manner disclosing the files, records or other materials collected, assembled or gathered and held by defendants and known as domestic intelligence files.

15. The defendants alleged that all of the Domestic Intelligence Unit files had been destroyed prior to receiving notice of the temporary restraining order.

16. Upon information and belief, a purpose and result of the collection, maintenance and dissemination of such information concerning political and other constitutionally protected activity is to harass and intimidate plaintiffs and others similarly situated. Upon information and belief, the defendants conduct was for the purpose and had the effects of discouraging the exercise of the constitutional



rights of freedom of expression, speech, assembly, association, religion, and the right to petition the government for redress of grievances secured by the First Amendment; rights under the Fourth Amendment including the right to privacy and to be free from unreasonable search and seizures; rights under the Fifth Amendment including the right of privacy and due process; rights under the Ninth Amendment, including the right to privacy; and rights under the Fourteenth Amendment, including the right to due process, privacy, liberty, equal protection and the privileges and immunities of citizens to be free from arbitrary state action exceeding the legitimate police power of the state which has a chilling effect upon the exercise of all of the aforementioned constitutionally protected rights.

#### VI.

#### SECOND CAUSE OF ACTION

17. Plaintiffs incorporate by reference paragraph 2-16 of the Complaint. The effect of the defendants' activities, and the widespread publicity given thereto, is to cast a pall upon constitutionally protected political activity in Memphis, Tennessee, and to deter plaintiffs and other similarly situated from exercising their First Amendment rights to express their political beliefs, to dissent from governmental policies, to advocate unpopular or controversial ideas, to exercise their freedom of association and the freedom of the press. Defendants conduct chilled the exercise of said rights by instilling the fear that plaintiffs and others similarly situated will be made subjects of dossiers or reports by the Domestic Intelligence Unit or other units of the Memphis Police Department.

#### VIII.

#### THIRD CAUSE OF ACTION

18. The plaintiffs incorporate paragraphs 2-17 of the Complaint. The collection, maintenance and dissemination of

information concerning the constitutionally protected activity of the plaintiffs and other similarly situated constitutes an invasion of the right of privacy guaranteed and protected by the First, Fourth, Fifth and Ninth Amendments to the Constitution. The conduct of the defendants exceeds the lawful needs and statutory authority of the Memphis Police Department and is beyond the constitutional authority of the Mayor and the Police Department.

IX.

FOURTH CAUSE OF ACTION

19. The plaintiffs incorporate paragraphs 2-18 of the Complaint. The individuals and organizations whose names are or were contained in the files heretofore referred to have a right to sue for damages in the federal courts for the deprivation of their civil rights as provided by 18 U.S.C. §2520, 42 U.S.C., §§1983, 1985, 1986, and 1988.

20. The defendants and their agents have conspired to conceal the existence of such illegal conduct and have willfully failed to, and refused to, inform said individuals and organizations that they were subjects of illegal surveillance and/or subject of or included in said files. Said individuals and/or organizations have a right of access to the federal courts guaranteed by Acts of Congress, the due process and privileges and immunities clauses of the Fourteenth Amendment and the First, Fourth, Fifth, Sixth and Ninth Amendments to the Constitution for the redress of deprivations of civil rights. The defendants' actions to conceal said activities and files and the subsequent flagrant destruction of said files while there were pending requests to safe-keep the files, deprives said citizens of their constitutional right to the redress of grievances in violation of the First and Fourteenth Amendments to the Constitution and in violation of 42 U.S.C., §§1983 and/or 1985. The destruction of said



files has deprived the plaintiffs of their right to know whether their respective names are contained in said files, their right to obtain evidence material to the deprivation of the rights hereinabove alleged and the right to sue for the vindication thereof.

X.

FIFTH CAUSE OF ACTION

21. The plaintiffs incorporate paragraphs 2-20 of the Complaint. All of the activities heretofore alleged constitute a tort injury under common law and the law of Tennessee for defamation including libel and slander and for invasion of privacy.

WHEREFORE, plaintiffs respectfully request the following relief:

1. That this Court declare that the surveillance, collection, maintenance, storage and distribution of information by the defendants, their agents, servants and employees about the constitutionally protected activities of the plaintiffs and other persons and organizations similarly situated violates the First, Fourth, Fifth and Ninth Amendments to the Constitution.

2. That this Court permanently enjoin the defendants, their agents, servants and employees, from spying on, surveilling, infiltrating, or otherwise collecting, maintaining or using any information, records, files and dossiers of any kind relating to the constitutionally protected activities of plaintiffs and other persons and organizations similarly situated.

3. That this Court compel the defendants to deliver to this Court all domestic intelligence files (including any and all copies thereof) and any microfilm, indexes, cross references, log sheets, photographs, publications, reports, data computer tapes, cards or any other materials maintained by the Domestic Intelligence Unit as well as any other document showing any and all parties who had access

thereto. That this Court notify such person or organization about whom said files contained pertinent information, and to provide said citizens and organizations access thereto, with or without counsel, for examination and copying thereof, and to apprise said individuals and organizations of their rights and remedies to relief for the unconstitutional invasion of their rights heretofore described.

4. That this Court grant the plaintiffs expedited discovery to take depositions of the defendants, their agents, employees, servants or those acting in active concert and participation with them or other witnesses immediately, pursuant to Rule 26, et seq., Fed. R. Civ. P., and specifically Rule 30(a).

5. That this Court award each named plaintiff the sum of \$50,000 damages for injuries suffered as a result of the deprivation of their constitutional statutory and common law rights.

6. That this Court grant the plaintiffs costs and reasonable attorneys' fees.

7. That this Court grant the plaintiffs such other and further relief as this Court may deem just appropriate and necessary.

/s/

BRUCE S. KRAMER, Attorney for  
the American Civil Liberties  
Union in West Tennessee, Inc.  
P. O. Box 3070  
Memphis, Tennessee 38103

/s/

JACK D. NOVIK, and  
MELVIN L. WULF, American Civil  
Liberties Foundation  
22 East 40th Street  
New York, New York 10016

STATE OF TENNESSEE

COUNTY OF SHELBY

CHAN KENDRICK, being duly sworn, deposes and says that he is a resident of Memphis, Shelby County, Tennessee. He is one of the plaintiffs herein, and he has read the foregoing complaint and knows the contents thereof and that the same are true of his own knowledge except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes them to be true.

Chan Kendrick  
CHAN KENDRICK

SWORN to and subscribed before me this 14<sup>th</sup> day of September, 1976.

C. Bradford Foster  
Notary Public

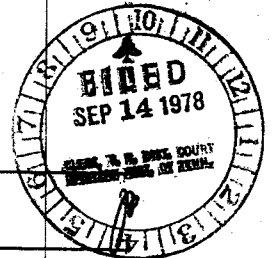
My commission expires:

9/3/79

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

CHAN KENDRICK, ET AL.,	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	CIVIL ACTION
	§	NO. C 76-449
WYETH CHANDLER, et al.,	§	
	§	
Defendants.	§	



ORDER, JUDGMENT AND DECREE

Plaintiffs, Chan Kendrick, Mike Honey, and the American Civil Liberties Union in West Tennessee, Inc., having commenced this action on or about September 14, 1976, against defendants Wyeth Chandler, Mayor or the City of Memphis, W. O. Crumby, Chief of Police and Acting Director of Police of the City of Memphis, P. T. Ryan, Captain of the Intelligence Section of the Memphis Police Department, and George W. Hutchison, Deputy Chief of Operations of the Memphis Police Department, individually and in their official capacities, and the court having determined by Order dated September 23, 1977 that the pleadings are sufficient to state a cognizable claim for relief, and the parties having waived hearing, findings of fact and conclusions of law, and defendants having consented to entry without further notice of the within Order, Judgment and Decree (hereinafter "Decree"):

NOW, THEREFORE on application of Jack D. Novik, Esquire, American Civil Liberties Union Foundation, Bruce S. Kramer, Esquire, American Civil Liberties Union in West Tennessee, Inc., and Alex Hurder, attorneys for the plaintiffs, and upon consent of defendants, it is ORDERED, ADJUDGED and DECREED as follows:

A. Statement of General Principles

The defendants herein deny that they have acted illegally in any manner but agree to the term hereafter set out in order to dispose of the controversy between the parties.

The provisions of this Decree prohibit the defendants and the City of Memphis from engaging in law enforcement activities which interfere with any person's rights protected by the First Amendment to the United States Constitution including, but not limited to, the rights to communicate an idea or belief, to speak and dissent freely, to write and to publish, and to associate privately and publicly for any lawful purpose.

Furthermore, even in connection with the investigation of criminal conduct, the defendants and the City of Memphis must appropriately limit all law enforcement activities so as not to infringe on any person's First Amendment rights.

B. Definitions

1. "First Amendment rights" means rights protected by the First Amendment to the Constitution of the United States including, but not limited to, the rights to communicate an idea or belief, to speak and dissent freely, to write and to publish, and to associate privately and publicly for any lawful purpose.

2. The "City of Memphis" means all present and future officials, employees and any other agents, and all departments, divisions and any other agencies, of the City of Memphis, Tennessee.

3. "Person" means any individual, group or organization.

4. "Political Intelligence" means the gathering, indexing, filing, maintenance, storage or dissemination of information, or any other investigative activity, relating to any person's beliefs, opinions, associations or other exercise of First Amendment rights.

5. "Defendants" means defendants Chandler, Crumby, Ryan and Hutchinson and their successors in office.

C. Political Intelligence

1. The defendants and the City of Memphis shall not engage in political intelligence.

2. The defendants and the City of Memphis shall not operate or maintain any office, division, bureau or any other unit for the purpose of engaging in political intelligence.

D. Prohibition Against Electronic Surveillance for Political Intelligence

The defendants and the City of Memphis shall not intercept, record, transcribe or otherwise interfere with any communication by means of electronic surveillance for the purpose of political intelligence.

E. Prohibition Against Covert Surveillance for Political Intelligence

The defendants and the City of Memphis shall not recruit, solicit, place, maintain or employ an informant for political intelligence; nor shall any officer, employee or agent of the City of Memphis, for the purpose of political intelligence, infiltrate or pose as a member of any group or organization exercising First Amendment rights.

F. Harassment and Intimidation Prohibited

1. The defendants and the City of Memphis shall not disrupt, discredit, interfere with or otherwise harass any person exercising First Amendment rights. Among other things, the City of Memphis shall not disseminate damaging, derogatory, false or anonymous information about any person for the purpose of political intelligence, or attempt to provoke disagreement, dissention or violence between persons.

2. The defendants and the City of Memphis shall not engage in any action for the purpose of, or reasonably having the effect of, deterring any person from exercising First

Amendment rights. As an example, the City of Memphis shall not, at any lawful meeting or demonstration, for the purpose of chilling the exercise of First Amendment rights or for the purpose of maintaining a record, record the name of or photograph any person in attendance, or record the automobile license plate numbers of any person in attendance.

G. Criminal Investigations Which May Interfere With the Exercise of First Amendment Rights

1. Any police officer conducting or supervising a lawful investigation of criminal conduct which investigation may result in the collection of information about the exercise of First Amendment rights, or interfere in any way with the exercise of such First Amendment rights, must immediately bring such investigation to the attention of the Memphis Director of Police for review and authorization.

2. The Director of Police shall review the factual basis for the investigation and the investigative techniques to be employed. The Director of Police shall issue a written authorization for an investigation for a period not to exceed ninety (90) days only if the Director of Police makes written findings that:

- a. The investigation does not violate the provisions of this Decree; and
- b. the expected collection of information about, or interference with, First Amendment rights is unavoidably necessary for the proper conduct of the investigation; and
- c. Every reasonable precaution has been employed to minimize the collection of information about, or interference with, First Amendment rights; and



- d. the investigation employs the least intrusive technique necessary to obtain the information.

3. The Director of Police may authorize an extension of such investigation for an additional period specified by the Director of Police not to exceed ninety (90) days. The Director of Police shall authorize each such extension only if the Director of Police re-evaluates the factual basis for the investigation and the investigative techniques to be employed, and makes current written findings as required in Paragraph 2, above.

#### H. Maintenance and Dissemination of Information

1. The defendants and the City of Memphis shall not maintain personal information about any person unless it is collected in the course of a lawful investigation of criminal conduct and is relevant to such investigation. Information which has been collected in violation of this Decree shall be destroyed.

2. The defendants and the City of Memphis shall not disseminate personal information about any person collected in the course of a lawful investigation of criminal conduct to any other person, except that such information may be disseminated to another governmental law enforcement agency then engaged in a lawful investigation of criminal conduct.

#### I. Restriction on Joint Operations

The defendants and the City of Memphis shall not encourage, cooperate with, delegate, employ or contract with, or act at the behest of, any local, state, federal or private agency, or any person, to plan or conduct any investigation, activity or conduct prohibited by this Decree.

#### J. Dissemination and Posting of this Decree

The defendants and the City of Memphis shall familiarize each of its law enforcement personnel with the contents of



this Decree in the same manner in which those personnel are instructed about other rules of conduct governing such personnel. In addition, defendants and the City of Memphis shall disseminate and make known the contents of this Decree through publication, public posting and other means.

K. Effective Date

This Decree shall be effective when approved and entered by the Court as fair, reasonable and adequate.

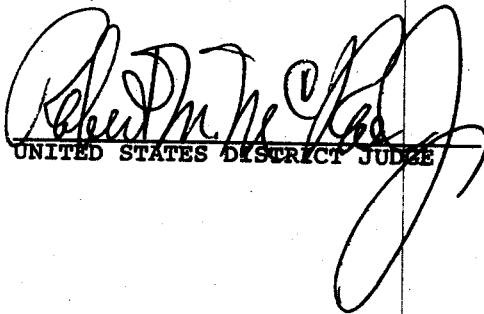
L. Binding Effect

This Decree, providing prospective relief only, constitutes a full and final adjudication of all the named plaintiffs' claims for injunctive and affirmative relief as stated in the Complaint. However, it shall have no binding effect upon any claims for damages that have been, might have been, or might in the future, be asserted by any other individual. Any statutes of limitations that apply to any such claims are hereby tolled from September 14, 1976 to the date of this Decree.

M. Retention of Jurisdiction

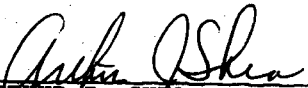
The Court will retain jurisdiction of this action, including any issue which might arise regarding payment of attorneys' fees to counsel for plaintiffs, pending disposition of all matters contained in this Decree and for the purpose of issuing any additional order required to effectuate this Decree.

SO ORDERED.

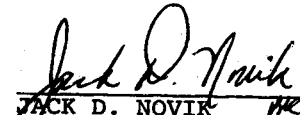
  
UNITED STATES DISTRICT JUDGE

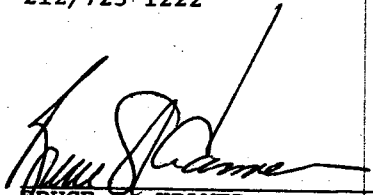
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APPROVED FOR ENTRY:

  
ARTHUR J. SHEA  
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212/725-1222

  
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American Civil Liberties Union  
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P. O. Box 3070  
Memphis, Tennessee 38103  
901/525-6361

  
ALEX HURDER  
Attorney at Law  
111 North Maple Street  
Covington, Tennessee 38019

Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

<b>ELAINE BLANCHARD, et al.</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>ACLU OF TENNESSEE, INC.,</b>	)	
	)	
<b>Intervenor-Plaintiff</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>CITY OF MEMPHIS</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

---

**AFFIDAVIT OF ERIC LEE SIRIGNANO**

STATE OF TENNESSEE

COUNTY OF DAVIDSON

**SWORN AFFIDAVIT OF ERIC LEE SIRIGNANO**

1. My name is Eric Lee Sirignano. I am an adult resident of Davidson County, Tennessee. I am over the age of 21, and I am competent to make this sworn statement.

2. The facts in this affidavit are based on my personal knowledge and are true and correct to the best of my knowledge, information, and belief.

3. I am the Administrative and Technology Manager of the ACLU of Tennessee, Inc. ("ACLU-TN").

**EXHIBIT C**

4. Part of my duties is to maintain the corporate records for the ACLU-TN.

5. These records include the ACLU-TN's corporate charter, bylaws, and annual reports, other reports required by federal or state law and meeting minutes of the Board of Directors.

6. When I took office with ACLU-TN, I became the custodian of ACLU-TN's historical documents and records dating back to its founding in 1968.

7. Since I have been custodian of these records, the corporate charter and historic records, including past bylaws and meeting minutes, are kept in filing cabinets in the ACLU-TN's main office within the locked facility, which is accessible only by ACLU-TN employees or those under employee supervision.

8. I have personally inspected the following original documents:

a. Charter of Incorporation for ACLU of Tennessee, Inc., attached as Exhibit D.

b. By-Laws of the American Civil Liberties Union of Tennessee, Inc., attached as Exhibit G.

c. 1973 By-Laws of the American Civil Liberties Union of Tennessee, Inc., attached as Exhibit H.

d. American Civil Liberties Union of Tennessee Board of Directors Minutes of the Meeting of October 4, 1975, attached as Exhibit I.

9. The Corporate Charter is the original charter dated September 18, 1968 and bears the raised, golden seal of the State of Tennessee and the original signature of Joe Carr, Tennessee Secretary of State.


10. The by-laws and minutes were found in their designated files for by-laws and minutes, which is the place where the original records are most likely to be.

11. All of the records are in a condition demonstrating that they are legitimate and have not been tampered with.

12. All of the records are more than twenty years old.

13. Copies provided to the court are true and correct copies of the original records maintained by ACLU-TN.

FURTHER AFFIANT SAITH NOT.

  
ERIC LEE SIRIGNANO

SUBSCRIBED AND SWORN TO  
Before me on this the 5<sup>th</sup> day of  
April, 2017

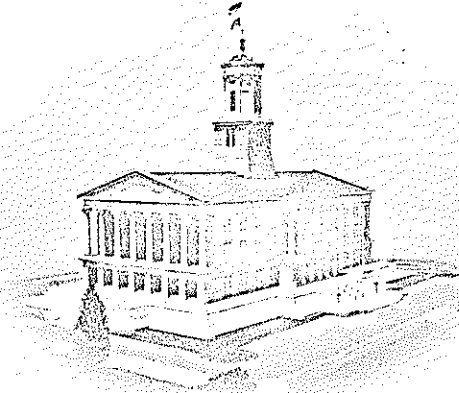
  
Notary Public

My Commission Expires 3/6/18









I, **Joe C. Carr**, Secretary of State of the State of Tennessee, do hereby certify that the annexed Instrument with Certificate of Acknowledgment was filed in my office and recorded on the 18th day of September 19 68

IN CORPORATION RECORD BOOK VOLUME 0-27, PAGE 1638

In Testimony Whereof, I have hereunto subscribed my Official Signature and by order of the Governor affixed the Great Seal of the State of Tennessee at the Department in the City of Nashville, this 18th day of



September

A.D. 19 68

A handwritten signature in cursive script, followed by a horizontal line and the words "Secretary of State." in a serif font.

GENERAL WELFARE

## STATE OF TENNESSEE

### *Charter of Incorporation*

Be It Known, That Whitworth Stokes, Jr., Norman Parks, Lewis Sinclair,  
Mrs. Ruby Bishop, and Thomas Baker,

are hereby constituted a body politic and corporate, by the name of and style of ACLU of  
Tennessee, Inc.

for the purpose of 1. consolidating the affairs and activities of the  
previously existing East Tennessee Civil Liberties Union, Inc. and  
Middle Tennessee Civil Liberties Union, Inc., and continuing the  
previous operations of said coporations.

2. To also absorb at a future time, if agreed to by  
the membership and/or Board of Directors of both corporations, to  
assume and continue the operations of the West Tennessee Civil  
Liberties, Inc., a Tennessee corporation.

3. To affiliate itself with the American Civil Liberties  
Union, a corporation with headquarters in New York, New York, and to  
conform to all regulations and requirements of said American Civil  
Liberties Union and to do all things impowered to do so by virtue of  
said affiliation.

4. To cooperate and work with any and all agencies or  
groups having the same or related purposes as those here instated.

5. To buy and sell property, receive and disburse  
funds, and do all things incident to the essential operation of this  
corporation.



The general powers of said corporation shall be: (1) To sue and be sued by the corporate name. (2) To have and use a common seal, which it may alter at pleasure; if no common seal, then the signature of the name of the corporation, by any duly authorized officer, shall be legal and binding. (3) Any corporation chartered under the laws of Tennessee for religious, charitable, educational, missionary, or other eleemosynary purposes, and not for profit, shall have the power to receive property, real, personal or mixed, by purchase, gift, devise, or bequest, sell the same and apply the proceeds toward the promotion of the objects for which it is created, or hold any such property and apply the income and profits towards such objects. Unless otherwise specifically directed in the trust instrument by which any real or personal property, money, or other funds, are given, granted, conveyed, bequeathed, devised to, or otherwise vested in, corporations formed for religious, educational, scientific, or other charitable purposes, the directors, the governing board, or the authorized finance committee thereof, when authorized by the corporation, shall have power to invest funds thus received, or the proceeds of any property thus received, in such investments as in the honest exercise of their judgment they may, after investigation, determine to be safe and proper investments, and to retain any investments heretofore so made. (4) Any corporation heretofore chartered for any of the foregoing purposes, desiring to avail itself of these powers, shall submit the question to its directors or trustees at any regular meeting, or special meeting, called for the purpose, or to any regular or special meeting of its executive committee, and if a majority of said directors, trustees, or executive committee vote in favor of applying for the amendment, it may then proceed in usual course to file an amendment to its charter. (5) To establish by-laws, and make all rules and regulations not inconsistent with the laws and constitution, deemed expedient for the management of corporate affairs. (6) To appoint such subordinate officers and agents, in addition to a president and secretary, or treasurer, as the business of the corporation may require. (7) To designate the name of the office, and fix the compensation of the officer. (8) To borrow money to be used in payment of property bought by it, and for erecting buildings, making improvements, and for other purposes germane to the objects of its creation, and secure the repayment of the money thus borrowed by mortgage, pledge, or deed of trust, upon such property, real, personal, or mixed, as may be owned by it; and it may, in like manner, secure by mortgage, pledge, or deed of trust, any existing indebtedness which it may have lawfully contracted.

The said five or more corporators shall, within a convenient time after the registration of this charter, elect from their number a president, secretary, and treasurer, or the last two officers may be combined into one, said officers and the other corporators to constitute the first board of directors. Any corporation not for profit may increase its directors or trustees to a number not more than one hundred, by due and proper amendment to its by-laws, unless otherwise specifically provided. In all elections each member to be entitled to one vote, either in person or by proxy, and the result to be determined by a majority of the votes cast. Due notice of any election must be given by advertisement in a newspaper, personal notice to the members, or a day stated on the minutes of the board one month preceding the election. The term of officers may be fixed by the by-laws, the said term not, however, to exceed three years. All officers hold office until their successors are duly elected and qualified.

The general welfare of society, not individual profit, is the object for which this charter is granted, and the members are not stockholders in the legal sense of the term, and no dividends or profits shall be divided among the members.

The board of directors shall keep a record of all their proceedings, which shall be at all times subject to the inspection of any member. The corporation may establish branches in any other County in the State.

The members may, at any time, voluntarily dissolve the corporation by a conveyance of its assets and property to the State of Tennessee, any County or municipality of the State, or to any other corporation holding a charter from the State for purposes not of individual profit, first providing for corporate debts; provided, that assets and property so conveyed shall be used by the grantee for purposes similar to those of the conveying corporation.

Whenever there has been no meeting of the members for a period of five years or more, and because of the death of members or the condition of the corporate records it is impossible to notify a sufficient number of members to constitute a quorum, notice of a meeting of the members may be made by publication in some newspaper in the County where such corporation has its principal location, at least thirty days before such meeting shall be held. The members attending such meeting shall be deemed to constitute a quorum for the purposes of electing directors or trustees, and authorizing such directors or trustees to dissolve the corporation and convey its property and assets in accordance with this section.

The charter is subject to modification and amendment; and in case said modification or amendment is not accepted, corporate business is to cease, and the assets and property, after payment of debts, are to be conveyed, as aforesaid, to some other corporation holding a charter for purposes not connected with individual profit. Acquiescence in any modification, thus declared, shall be determined in a meeting of the members especially called for that purpose, and only those voting in favor of the modification shall thereafter compose the corporation.

The means, assets, income, or other property of the corporation shall not be employed, directly or indirectly, for any other purpose whatever than to accomplish the legitimate objects of its creation, and by no implication shall it engage in any kind of trading operation, nor hold any more real estate than is necessary for its legitimate purposes.

Expulsion shall be the only remedy for the nonpayment of dues by the members, and there shall be no individual liability against the members for corporate debts, but the entire corporate property shall be liable for the claims of creditors.

We, the undersigned, the incorporators above mentioned, hereby apply to the State of Tennessee for a charter of incorporation for the purposes declared in the foregoing instrument.

Witness our hands this, the 4th day of September, 1968

SUBSCRIBING WITNESS:

Whitworth Stokes, Jr.  
Norman L. Parks  
Lewis S. Sinclair  
Ruby Bishop  
C. T. Baker, Jr.

STATE OF TENNESSEE, COUNTY OF Davidson

Personally appeared before me GEORGE E. BARRETT

(Clerk of the County Court or Notary Public), the within named incorporators, Whitworth Stokes, Jr.  
Norman L. Parks, Lewis S. Sinclair, Ruby Bishop, and C. T. Baker, Jr.

with whom I am personally acquainted, and who acknowledged that they executed the within application for a Charter of Incorporation for the purposes therein contained and expressed.

Witness my hand and official seal at office in Nashville, Tennessee, this 4  
day of September, 1968

George E. Barrett  
(Signature of County Court Clerk or Notary Public)

(If Notary Public) My commission expires 1 day of June, 1970

(Official Title) Notary Public

(Certificate of Probate for Subscribing Witness if not acknowledged by all of the Incorporators)

STATE OF TENNESSEE, COUNTY OF \_\_\_\_\_

Personally appeared before me \_\_\_\_\_

of said County, the within named \_\_\_\_\_  
the subscribing witness and incorporator, with whom I am personally acquainted, and who acknowledged that he executed the within application for a Charter of Incorporation for the purposes therein contained and expressed; the said \_\_\_\_\_, subscribing witness to the signatures subscribed to the within application, being first duly sworn, deposed and said that he is personally acquainted with the within named incorporators, \_\_\_\_\_

and they did in his presence acknowledge that they executed the within application for a Charter of Incorporation for the purposes therein contained and expressed.

Witness my hand and official seal at office in \_\_\_\_\_, Tennessee, this \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_

(Signature of County Court Clerk or Notary Public)

(If Notary Public) My commission expires \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Official Title) \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

ELAINE BLANCHARD, et al.	)
	)
Plaintiffs,	)
	)
ACLU OF TENNESSEE, INC.,	)
	)
Intervenor-Plaintiff	)
	)
v.	)
	)
CITY OF MEMPHIS	)
	)
Defendant.	)
_____	)

**AFFIDAVIT OF SARAH ELIZABETH ABBOTT**

STATE OF TENNESSEE

COUNTY OF DAVIDSON

**SWORN AFFIDAVIT OF SARAH ELIZABETH ABBOTT**

1. My name is Sarah Elizabeth Abbott. I am an adult resident citizen of Davidson County, Tennessee. I am over the age of 21, and I am competent to testify in this matter.

2. The facts in this affidavit are based on my personal knowledge and are true and correct to the best of my knowledge, information, and belief.

3. I am a legal intern with the American Civil Liberties Union of Tennessee, Inc.

**EXHIBIT E**



4. I conducted an internet search on April 4, 2017, using the search engine on the Tennessee Department of State website, Business Services Online page.

5. The web address of that page is  
<http://tnbear.tn.gov/Ecommerce//FilingSearch.aspx>.

6. I entered the term "East Tennessee Civil Liberties Union" in the aforementioned search engine, and the search produced a listing under Control #:000072570: For Profit Corporation Domestic, Name: EAST TENNESSEE CIVIL LIBERTIES UNION, INC.

7. I entered the term "Middle Tennessee Civil Liberties Union" in the aforementioned search engine, and the search produced a listing under Control #:000079261: For Profit Corporation Domestic, Name: MIDDLE TENNESSEE CIVIL LIBERTIES UNION, INC.

8. I selected the Printer Friendly Version of the abovementioned records and downloaded them into PDF files.

FURTHER AFFIANT SAITH NOT.

SUBSCRIBED AND SWORN TO  
Before me on this the 4<sup>th</sup> day of  
April, 2017



  
\_\_\_\_\_  
SARAH ABBOTT

  
\_\_\_\_\_  
Notary Public

My Commission Expires 3/6/18





**Tre Hargett**  
Secretary of State

**Division of Business Services**  
**Department of State**  
State of Tennessee  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102

## Filing Information

Name: **EAST TENNESSEE CIVIL LIBERTIES UNION, INC.**

### General Information

<b>SOS Control #</b>	<b>000072570</b>	Formation Locale: TENNESSEE
Filing Type:	For-profit Corporation - Domestic	Date Formed: 05/23/1966
	05/23/1966 4:30 PM	Fiscal Year Close 5
Status:	Inactive - Revoked (Revenue)	
Duration Term:	Perpetual	

### Registered Agent Address

NO AGENT  
AGENT RESIGNED OR INVALID  
NASHVILLE, TN 37219

### Principal Address

-----  
KNOXVILLE, TN 00000

The following document(s) was/were filed in this office on the date(s) indicated below:

<u>Date Filed</u>	<u>Filing Description</u>	<u>Image #</u>
03/17/1983	Dissolution/Revocation - Revenue	ROLL 0370
05/23/1966	Initial Filing	BO26P0812

### Active Assumed Names (if any)

<u>Date</u>	<u>Expires</u>
-------------	----------------



Tre Hargett  
Secretary of State

Division of Business Services  
Department of State  
State of Tennessee  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102

## Filing Information

Name: MIDDLE TENNESSEE CIVIL LIBERTIES UNION, INC.

### General Information

SOS Control #	000079261	Formation Locale: TENNESSEE
Filing Type:	For-profit Corporation - Domestic	Date Formed: 10/13/1966
	10/13/1966 4:30 PM	Fiscal Year Close 10
Status:	Inactive - Dissolved (Administrative)	
Duration Term:	Perpetual	

Registered Agent Address  
JAMES N BRYAN JR  
121 17TH AVE S  
NASHVILLE, TN 37203

Principal Address  
-----  
NASHVILLE, TN 00000

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed	Filing Description	Image #
10/12/1984	Dissolution/Revocation - Administrative	496 01665
10/13/1966	Initial Filing	B026P1507

Active Assumed Names (if any)	Date	Expires



**Tre Hargett**  
Secretary of State

**Division of Business Services**  
**Department of State**  
**State of Tennessee**  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102

THOMAS H. CASTELLI  
PO BOX 120160  
NASHVILLE, TN 37212-0160

**Request Type: Certified Copies**

Request #: 231677

Issuance Date: 03/13/2017

Copies Requested: 1

**Document Receipt**

Receipt # : 003196425	Filing Fee:	\$20.00
Payment-Check/MO - AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF TENN., INC., NA		\$20.00

I, Tre Hargett, Secretary of State of the State of Tennessee, do hereby certify that **WEST TENNESSEE CIVIL LIBERTIES UNION, INC.**, Control # 87192 was formed or qualified to do business in the State of Tennessee on 04/18/1967. WEST TENNESSEE CIVIL LIBERTIES UNION, INC. has a home jurisdiction of TENNESSEE and is currently in an Inactive - Revoked (Revenue) status. The attached documents are true and correct copies and were filed in this office on the date(s) indicated below.

Tre Hargett  
Secretary of State

Processed By: Nichole Hambrick

The attached document(s) was/were filed in this office on the date(s) indicated below:

<u>Reference #</u>	<u>Date Filed</u>	<u>Filing Description</u>
B026P2519	04/18/1967	Initial Filing
ROLL 0373	03/17/1983	Dissolution/Revocation - Revenue

CHARTER OF INCORPORATION  
OF THE  
WEST TENNESSEE CIVIL LIBERTIES UNION, INC.  
(A General Welfare Corporation)

---

Be it known that pursuant to Sections 48-1101, et seq., Tennessee Code Annotated, W. J. Michael Cody, Russell B. Sugarmon, Jr., Mary K. Tolleson, Mary Doughty, and Eric Anderson are hereby constituted a body politic and corporate by the name and style of West Tennessee Civil Liberties Union, Inc.

The purpose of this Corporation shall be to further the objectives of the American Civil Liberties Union and to advance the cause of civil liberties in the State of Tennessee, including: freedom of belief, expression and association; equality before the law, and due process under law; and to take all legitimate action in the furtherance and defense of civil liberties.

The general powers of this Corporation shall be:

- (1) To sue and be sued by the corporate name.
- (2) To have and use a common seal, which it may alter at pleasure; if no common seal, then the signature of the name of the Corporation, by any duly authorized officer, shall be legal and binding.



(3) To establish by-laws and make all rules and regulations not inconsistent with the laws and Constitution, deemed expedient for the management of corporate affairs.

(4) To appoint such subordinate officers and agents, in addition to the President and Secretary, or Treasurer, as the business of the Corporation may require.

(5) To designate the name of the office, and fix the compensation of the officer.

(6) To borrow money to be used in payment of property bought by it, and for erecting buildings, making improvements, and for other purposes germane to the objects of its creation, and to secure the repayment of the money thus borrowed by mortgage, pledge, or deed of trust, upon such property, real, personal or mixed, as may be owned by it; and it may, in like manner, secure by mortgage, pledge or deed of trust, any existing indebtedness which it may have lawfully contracted.

(7) To receive property, real, personal, or mixed, by purchase, gift, devise, or bequest, sell the same and apply the proceeds toward the promotion of the objects for which it is created, or hold any such property and apply the income and profits towards such objects.

The purpose of the organization of this Corporation is for the general welfare, and not for profit, and any income derived therefrom shall not be paid out in dividends to any person or corporation, but shall be used for the general welfare purposes, and only for the purposes herein expressly provided for.

The Corporation shall have the general powers, and be governed by the general statutes of the State of Tennessee which have heretofore been passed and are now in force, and any statute subsequently passed governing, controlling and directing the general conduct of the corporations organized for the general welfare and not for profit.

We, the undersigned, the incorporators above mentioned, hereby apply to the State of Tennessee for a Charter of Incorporation for the purposes declared in the foregoing instrument.

WITNESS OUR HANDS, this the 15<sup>th</sup> day of April, 1967.

W. F. Michael Cody  
W. F. Michael Cody

Russell B. Sugarmon, Jr.  
Russell B. Sugarmon, Jr.

Mary K. Tolleson  
Mary K. Tolleson

Mary Doughty  
Mary Doughty

Eric Anderson  
Eric Anderson

STATE OF TENNESSEE

COUNTY OF SHELBY

Personally appeared before me, David E. Gaywood, a Notary Public, the within named incorporators, W. J. Michael Cody, Russell B. Sugarmon, Jr., Mary K. Tolleson, Mary Doughty and Eric Anderson with whom I am personally acquainted, and who acknowledged that they executed the within application for a Charter of Incorporation for the purposes therein contained and expressed.

WITNESS my hand and official seal at office in Memphis, Tennessee, this 15 day of April, 1967.

David E. Gaywood  
Notary Public

My Commission Expires:

Jan 6, 1969

I, JOE C. CARR, Secretary of State, do certify that  
this Charter, with certificate attached, the foregoing of which  
is a true copy, was this day registered and certified to by me.

This the 18th day of April, 1967.

JOE C. CARR,  
SECRETARY OF STATE

FEE: \$ 25.00

FILED  
SECRETARY OF STATE

1983 MAR 18 AM 10 19

MARTHA B. OLSEN

Commissioner

STATE OF TENNESSEE  
DEPARTMENT OF REVENUE  
ANDREW JACKSON STATE OFFICE BUILDING  
NASHVILLE, TENNESSEE 37242

March 17, 1983

Honorable Gentry Crowell  
Secretary of State  
Corporate Division  
Fifth Floor, James K. Polk Bldg.  
Nashville, TN 37219

Dear Mr. Crowell:

In accordance with Section 67-2801 of the Tennessee Code Annotated, we hereby certify to you for revocation as Secretary of State the not-for-profit corporations found on the Corporate Charter Management System microfilm rolls 370 through 373 inclusive. These corporations have failed to respond or file annual reports with the Department of Revenue as required.

Sincerely,

*Martha Hudson*

Martha Hudson, Director  
Taxpayer Services Division

MH/eh

BY-LAWS OF THE AMERICAN CIVIL LIBERTIES UNION OF TN, INC.

ACLU of TN  
Bylaws

Article I  
NAME

The name of the organization shall be the ACLU of Tennessee, Inc.

Article II  
PURPOSE

Section 1. The purpose of the organization shall be to further the objectives of the American Civil Liberties Union, Inc., and to maintain and advance civil liberties in the State of Tennessee, including freedoms of association, press, religion, and speech, due process of law, and equal protection of the law, and to take all appropriate action in the furtherance and defense of civil liberties. These objectives shall be sought without political partisanship.

Section 2. This organization shall be an affiliate of the American Civil Liberties Union, Inc., and shall be subject to its constitution and policies.

Article III  
HEADQUARTERS

The headquarters of the ACLU of Tennessee, Inc. shall be located as determined by its Board of Directors.

Article IV  
MEMBERSHIP

All members in good standing of the American Civil Liberties Union, Inc. resident within the State of Tennessee, shall be deemed members of the ACLU of Tennessee, Inc.

Article V  
MEMBERSHIP MEETINGS

Section 1. The Annual Membership Meeting shall be held during the period of April 1 through June 30 each year in such place and on such date and at such time as shall be determined by the Board of Directors for the purpose of electing Directors-At-Large, and for receiving reports of officers, the Board of Directors, the Executive Director, the various committees, and the several Chapters, as well as any other business that might arise. Written notice and ballots for election of the Directors-At-Large together with a list of the nominees shall be mailed to each member of the ACLU of Tennessee, Inc. at least thirty (30) days in advance of the meeting.

Section 2. At least sixty (60) days prior to the date of the Annual Meeting, each member of the ACLU of Tennessee, Inc. shall be mailed a list of nominees for Director-At-Large as proposed by the Nominating Committee. Additional nominations may thereafter be made by the Boards of the Chapters, and by petition of any ten members of the ACLU of Tennessee, Inc. Such nominations must be sent to the President at the address of the state office at least forty-five (45) days before the Annual Meeting.

Section 3. Voting shall be by secret ballot, either in person at the Annual Meeting or by mail. The signature and address of each member voting by mail must be placed on the envelope containing the ballot. Such envelopes shall be opened at the Annual Meeting in such a way as to preserve the secrecy of the ballot. Ballots received after the official count of the vote at the Annual Membership Meeting shall not be valid.

Article VI  
OFFICERS

Section 1. The officers of the organization shall consist of a President, a Vice-President, a Secretary, and a Treasurer. Each shall exercise the duties ordinarily performed by such officer. Each shall serve until his/her successor is elected.

Section 2. The officers shall be elected annually by the Board of Directors at its annual meeting which shall be held immediately following an Annual Membership Meeting. Only members of the ACLU of Tennessee, Inc. shall be

eligible to hold office.

Article VII  
BOARD OF DIRECTORS

Section 1. The Board of Directors shall consist of the four officers, the Presidents of the several chapters, any members of the Board of Directors of the American Civil Liberties Union, Inc. who reside in Tennessee, five Directors-At-Large elected each year in conjunction with the Annual Membership Meeting, and the Directors elected by the several chapters as provided in Section 2, of this Article.

Section 2. Each Chapter shall be entitled to elect one Director for each fifty (50) members with fractional amounts to be ignored. The terms of the Directors elected by the Chapters shall run from one annual meeting of the ACLU of Tennessee, Inc. to the next. Representation shall be re-calculated each year, sixty (60) days prior to the Annual Membership Meeting and Chapters shall elect Directors to represent them prior to the Annual Membership Meeting.

Section 3. The direction and administration of the organization between membership meetings shall be conducted and managed by the Board of Directors. The Board of Directors may hire such personnel as may be needed to administer the affairs of the organization. In the event that an Executive Director is hired, the Executive Director shall have the power to hire and fire other staff personnel subject to approval of the Board of Directors.

Section 4. The National Board Member to represent the ACLU of Tennessee, Inc. shall be elected for a term of 3 years beginning in 1982 and every three years thereafter by the Board of Directors by secret ballot at its annual meeting immediately following the Annual Membership Meeting.

Section 5. In the event of the inability of any Director to attend any meeting of the Board of Directors that Director may designate an alternate who is a member of the ACLU of Tennessee, Inc. to act for him/her at that meeting with the same power as the Director, but no Director or alternate shall be entitled to cast more than one vote.

Section 6. The Board of Directors shall meet quarterly at such time and place as the Board may decide, or the Board may authorize the President to establish the time and place of such meetings. Additional meetings may be called by the President as needed. Any three (3) Directors may on written request, stating the purpose, require the President to call a meeting within thirty (30) days of their request.

Section 7. Members of the Board of Directors shall be sent a notice in writing at least ten (10) days in advance of each meeting.

Section 8. All meetings of the Board of Directors shall be open to members of the ACLU of Tennessee, Inc.

Section 9. In the case of a vacancy in the office of National Board Member, among the four officers, or among the five Director-At-Large the Board shall elect a successor to serve the unexpired term. In the case of a vacancy among the Directors elected by the Chapters the respective chapter shall elect a successor to serve the unexpired term.

Section 10. Members of the Board of Directors shall receive no compensation for services rendered as members of the Board, but nothing contained herein shall be construed to preclude any member in the Board's discretion, from being reimbursed for travel and other expenses incurred in attending to the affairs of the organization.

Section 11. The Board of Directors shall keep minutes of its meetings and a full account of its transactions and shall report on these through the President or the Executive Director to the Annual Membership Meeting.

Section 12. One-third of the members of the Board shall constitute a quorum.



Article VIII  
EXECUTIVE COMMITTEE

Section 1. There shall be an Executive Committee consisting of the four officers, the Presidents of the various chapters and any members of the National Board of Directors of the American Civil Liberties Union, Inc. residing in Tennessee. A quorum of the Executive Committee shall consist of a majority of its members.

Section 2. In the event of the inability of any member of the Executive Committee to attend any meeting, alternate selection will be handled pursuant to Article VII, Section 5.

Section 3. The Executive Committee may exercise the powers vested in the Board of Directors as to any matters which require disposition in intervals between the meetings of the Board, provided all such matters shall be reported to the Board promptly, and unless moot, shall be subject to ratification by the Board; and provided also, that the Board may delegate to or withdraw from the Executive Committee the power to act on such specific matters as it may determine.

Section 4. If matters arise requiring decision or action before a meeting of the Executive Committee can be convened, the President or in his/her absence, the Vice-President, shall be empowered to act on behalf of the Executive Committee after consulting with such members as can be reached. Public statements in the name of the organization which go beyond clearly defined policy positions of the ACLU of Tennessee, Inc. or the American Civil Liberties Union, Inc. shall be made only upon specific authorization of the Executive Committee, the Board of Directors or a meeting of the membership.

Section 5. The Executive Committee shall serve as the Nominating Committee and shall submit to the President not less than sixty-five (65) days before the Annual Meeting a list of at least five (5) nominees for Directors-At-Large.

Section 6. The Nominating Committee shall also submit a list of nominees for the offices of President, Vice-President, Secretary, and Treasurer to the Board of Directors at its annual meeting held following the Annual Membership Meeting.

Article IX  
CHAPTERS

Section 1. Local Chapters may be established as branches subordinate to the ACLU of Tennessee, Inc. by the Board of Directors in areas where membership and interest justify.

Section 2. Such Chapters shall have authority to direct and govern activities of the ACLU of Tennessee, Inc. in their respective areas subject to the by-laws and policies of the ACLU of Tennessee, Inc. and the American Civil Liberties Union, Inc. It shall also be the responsibility of the Chapters to assist the ACLU of Tennessee in raising operating funds above and beyond membership dues. A Chapter may be dissolved for cause by a two-thirds vote of the Board of Directors, but only after a statement of reasons has been furnished by the Board of Directors to the Chapter officers and a full hearing accorded.

Section 3. By-laws for any Chapter shall not go into effect until they have been approved by the Board of Directors of the ACLU of Tennessee, Inc.

Section 4. Each Chapter shall submit a proposed program and budget and a review of the previous year's activities each year at least one month prior to the Annual Meeting of the ACLU of Tennessee, Inc. The Board of Directors may allocate funds to the Chapters as it deems appropriate.

Section 5. Each Chapter shall submit quarterly financial reports, and minutes of their Board meetings (as held) to the President of the ACLU of TN, Inc.

Article X  
AMENDMENTS, PROXY VOTING, PARLIMENTARY AUTHORITY

Section 1. Amendments to the By-Laws may be proposed by any Chapter, or by the Board of any Chapter, or by petition of any twenty (20) members of the ACLU of Tennessee, Inc., or by any three (3) members of the Board of Directors. Any amendment duly proposed shall be sent to each member of the Board of Directors at least ten (10) days before the next meeting of the Board, and shall be voted on by the Board of Directors at that meeting. The Board of Directors



may modify any proposed amendment subject to the restrictions on amending proposed amendments to by-laws as stated in Robert's Rules of Order. Adoption of amendments shall require a two-thirds (2/3) vote of the Board of Directors and ratification by majority of the votes cast in a secret mail ballot referendum of the membership of the ACLU of Tennessee, Inc.

Section 2. Except as provided in Section 5 of Article VII there shall be no proxy voting in any meetings of the membership, the Board of Directors, the Executive Committee or any other committee of the ACLU of Tennessee, Inc.

Section 3. The rules contained in Roberts Rules of Order Revised, shall govern the ACLU of Tennessee, Inc. in all cases to which they are applicable, and in which they are not inconsistent with the by-laws or the special rules of order of this organization.

As revived - March 1973

BY-LAWS OF THE AMERICAN CIVIL LIBERTIES UNION OF TENNESSEE, INC.

Article I

NAME

The name of the organization shall be the ACLU of Tennessee, Inc.

Article II

PURPOSE

Section 1. The purpose of the organization shall be to further the objectives of the national American Civil Liberties Union, Inc., and to maintain and advance civil liberties in the State of Tennessee, including freedoms of association, press, religion, and speech, due process of the law, and equal protection of the law, and to take all appropriate action in the furtherance and defense of such purpose. These objectives shall be sought without political partisanship.

Section 2. This organization shall be and operate as an Affiliate of the American Civil Liberties Union, Inc., and subject to its regulations.

Article III

HEADQUARTERS

The headquarters of the ACLU of Tennessee, Inc., shall be located as determined by its Board of Directors.

Article IV

MEMBERSHIP

All members in good standing of the American Civil Liberties Union, Inc., resident within the State of Tennessee, shall be deemed members of the ACLU of Tennessee, Inc.

Article V

MEETINGS

Section 1. The Annual membership meeting shall be held during the period March 15 through May 15 of each year in such place and on such date as shall be determined by the Board of Directors. Written notice of the time and place of the meeting and a proposed agenda therefor shall be mailed to each member at least twenty-one (21) days prior to the meeting.

Section 2. Special meetings of the membership may be called at the discretion of the Board of Directors.

Section 3. Special meetings of the membership shall be called by the Board of Directors upon receipt by the Secretary of a written petition for a special meeting signed by twenty (20) members, which shall state proposed action to be taken by the special meeting. The Board shall fix the date and place of said special meeting but it shall be within thirty (30) days of the receipt of the petition. A notice of the time and place of any special meeting and the agenda therefor shall be mailed to each member at least twenty-one (21) days before the meeting.

Section 4. At all meetings of the members 5 percent of the membership shall be necessary and sufficient to constitute a quorum.

Section 5. The rules contained in the current edition of Robert's Rules of Order shall govern the society in all cases to which they are applicable and in which they are not inconsistent with these by-laws and any special rules of order the society may adopt. Rules which apply to meetings of the Board of Directors.

- 2 -

Article VI  
OFFICERS

Section 1. The officers of the organization shall be the equivalent officers of the Board of Directors and shall consist of a Chairman, a Vice-Chairman, a Secretary or an Executive Secretary and a Treasurer. Each shall exercise the duties ordinarily performed by his office and shall serve until his successor is elected.

Section 2. The officers shall be elected annually by the Board of Directors at its annual meeting, held at the time of the annual membership meeting, from among members of the organization. Nominations additional to those of the nominating committee shall be made by ballot. The election for chairman shall be by ballot. The person receiving the second largest number of votes shall serve as Vice-Chairman.

Article VII  
BOARD OF DIRECTORS

Section 1. The direction and administration of the organization between membership meetings shall be conducted and managed by a Board of Directors.

Section 2. The Board of Directors shall consist of the Presidents of the duly chartered Chapters plus additional Directors selected by the Chapters on the following basis: one Director for each 25 members up to 100 members, and one additional Director for each 50 members above 100, with fractional amounts to be ignored. Representation shall be recalculated each year and new Directors selected prior to the Annual meeting. Any Chapter which is chartered during the year shall be represented on the Board by the Chapter President, or by a Chapter elected representative. The officers shall serve as directors additional to those calculated on the basis of membership and to the chapter presidents.

Section 3. In the event of the inability of any Director to attend any meeting of the Board of Directors, an alternate for such Director may act at the meeting with the same powers as the Director. The selection of the alternate shall be in conformity to procedures established by the Chapter of which the Director is a member. No Director or alternate shall be entitled to cast more than one vote.

Section 4. The Board of Directors shall meet as the occasion requires but not fewer than three (3) times each year. Additional meetings may be called by the Chairman. Any three (3) Directors or twenty (20) members of the organization may, on written requests, require the Chairman to call a meeting within thirty (30) days of their request. The Board shall keep minutes of its meetings and a full account of its transactions.

Section 5. One-third of the members of the Board shall be necessary and sufficient to constitute a quorum for the transaction of business. All meetings of the Board of Directors shall be open to members of the organization.

Section 6. Members of the Board of Directors shall receive ten (10) days advance notice in writing of each meeting.

Section 7. Chapter Presidents shall serve on the Board during their tenure as President. The terms of office of all other Directors shall be for one year beginning as determined individually by the various Chapters, except as specified in Article VI, Section 2. In the case of a vacancy on the Board of Directors, the Chapter concerned shall select a successor to serve the unexpired term.

- 3 -

Section 8. Between meetings of the Board of Directors, an Executive Committee consisting of one State Board Director from each Chapter to be elected by the board or membership of the Chapter, and be designated as the Senior State Board member or Executive Committee member from that Chapter, shall have full authority to take any and all actions on behalf of the Board of Directors subject to review at the next meeting of the Board of Directors. The officers of the organization and any members of the National Board of Directors of the American Civil Liberties Union elected by the Board of Directors of this organization shall also serve as members of the Executive Committee. A quorum of the Executive Committee shall consist of a majority of its members. If matters arise requiring decision or action before a meeting of the Executive Committee can be convened, the Chairman, or in his absence the Vice-Chairman, shall be empowered to act on behalf of the Executive Committee after consulting such of its members as he can reach. Public statements in the name of the organization, which go beyond clearly defined policy positions of the state or national ACLU, shall be made only upon the authorization of the Executive Committee, the Board of Directors, or the membership.

Section 9. Members of the Board of Directors shall receive no compensation for services rendered as members of the Board, but nothing contained herein shall be construed to preclude any such member, in the Board's discretion, from being paid reasonable amounts for travel and other expenses incurred in attending to the affairs of the organization.

Section 10. The Executive Committee shall serve as a nominating committee and shall submit a list of nominees for the offices of Chairman, Secretary, and Treasurer to the Board of Directors at least 10 days before the Annual meeting of the Affiliate. At least two names shall be submitted for the office of Chairman.

## Article VIII

### CHAPTERS

Section 1. Chapters of the ACLU of Tennessee, Inc., may be chartered by the Board of the Directors in areas where membership size and interest justify such organization.

Section 2. Such Chapters shall have authority to direct and govern activities of ACLU in their area, subject to the policies and regulations of the ACLU of Tennessee, Inc., and the American Civil Liberties Union, Inc. The charter of a Chapter may be revoked for cause by a two-thirds vote of the Board of Directors, but only after a statement of reasons has been furnished by the Board to the Chapter officers and a full hearing accorded.

- 4 -

Section 3. By-laws for any Chapter shall not go into effect unless they have been approved by the Board of Directors of the Affiliate.

Section 4. Each Chapter shall submit a proposed program and budget and a review of the previous year's activities each year within one month following the Annual meeting of the Affiliate. The Board of Directors shall allocate funds to the Chapter as it deems appropriate.

Section 5. Any student Chapters chartered by the Board of Directors shall be administered by the nearest Chapter and student chapters as such will not be entitled to representation on the Board of Directors, but members of student chapters are not barred from serving on the Board of Directors of the ACLU of Tennessee, Inc.

#### Article IX

##### AMENDMENT OF THE BY-LAWS

Section 1. Amendments to the By-Laws may be proposed by petition of any twenty (20) members of the organization or of any three (3) members of the Board of Directors.

Section 2. Any amendment duly proposed shall be submitted to the members of the organization not later than the next meeting of such members provided that notice of any proposed amendment shall be given to the members at least twenty-one (21) days before it is to be voted upon. In the discretion of the Board of Directors, voting on any amendments may be by mail ballot. Amendments approved by two-thirds of the votes cast shall be deemed adopted.

#### Article X

##### EFFECTIVE DATE

The By-Laws of this corporation shall be effective as of December 15, 1967, in the event that the American Civil Liberties Union, Inc., approves.



**THE AMERICAN CIVIL LIBERTIES UNION OF TENNESSEE**

**BOARD OF DIRECTORS**

**AGENDA FOR THE MEETING OF OCTOBER 4, 1975**

**Vanderbilt Faculty Club - Nashville**

**A. PROCEDURAL ITEMS**

1. Approval of Agenda
2. Approval of Minutes of April 19, 1975 meeting

**B. ORGANIZATIONAL ITEMS**

1. Report from Executive Committee
2. Report from Nat'l Board: John Cleland
3. Approval of By-Laws for Middle Tenn. Chapter

**C. FINANCIAL ITEMS**

1. Jan.-Sept. Financial Report: Claire Peterson
2. Discussion of Application for 1976 CAF Grant
3. Discussion of 1976 Budget
4. Fund-Raising

**D. PROJECTS**

1. County Jail Project
2. Southern Prison Ministry Proposal (Joe Ingle)
3. Students Rights Handbook

**E. LEGAL ITEMS**

1. Report on Current Litigation
2. Ralph Moore Case: Jim Davis
3. Americans United Case: Joel Blatt

**F. DEVELOPMENT**

1. Feb. Leadership Workshop at Gatlinburg
2. Proposal for Clarksville Chapter
3. Membership Campaign

**G. LEGISLATIVE**

1. Small Claims Court: Diantha Paré
2. Students Records: Diantha Paré
3. Committee on Revision of Tenn. Code

**H. Announcements**

**EXHIBIT I**

THE AMERICAN CIVIL LIBERTIES UNION OF TENNESSEE

BOARD OF DIRECTORS

MINUTES OF THE MEETING OF OCTOBER 4, 1975

Vanderbilt University Club - Nashville

MEMBERS PRESENT:

WEST TENNESSEE CHAPTER: Bridget Jodell, Mary Wilder, Phil Arnold, Bruce Kramer, Delton Pickering.

MIDDLE TENNESSEE CHAPTER: Jim Bryan, Claire L. Peterson.

FRANKLIN COUNTY: David Camp.

CHATTANOOGA: Harvey D. Medearis IV, James Davis, Bob Allen, Judy Bodley.

KNOXVILLE: John W. Cleland, Reina S. Cleland, Sydney Childers, Peter Bowman, H. Phillips Hamlin, Pat Bing.

OAK RIDGE AREA: Jim Muir, Diantha Paré, Virginia Jones, John M. Googin, Betty C. Griffith, Charles Washington, Dot Smith.

EXECUTIVE DIRECTOR: Chan Kendrick

GUESTS: Charles Huddleston, Tennessee Student Rights Responsibilities Center (Knoxville), Lee Ann Bellan (Knoxville, Joe Ingle, Southern Prison Ministry (Nashville).

The meeting was called to order at 10:00 a.m. by the Affiliate Chairperson, Delton Pickering.

The attached agenda was presented and adopted.

The motion to approve the minutes of April 19, 1975 meeting was m/s/c.

AGENDA ITEM B:

1. It was reported the Executive Committee would meet early December.
2. John Cleland, National Board Representative, distributed a printed report of the meeting of the National Board.
3. Middle Tennessee Chapter distributed copies of the BY LAWS OF THE MIDDLE TENNESSEE CIVIL LIBERTIES UNION, INC. After discussion of said by laws, it was m/s/c to approve.

It was announced that the Middle Tennessee chapter planned to contribute \$200.00 to the state affiliate. This amount represents fund-raising income. The contribution was accepted with gratitude.

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AGENDA ITEM C:


1. Copies of the Financial Report, January - September, were distributed. Claire Peterson, Treasurer, responded to questions concerning the report. Consensus to accept report.
2. Copies of the application for Crisis Area Fund Grant (Proposal) for 1976 were distributed. The request is for the sum of \$5,000.00. It was noted the Crisis Area Fund is soon to be designated the "Development Fund."
3. It was proposed the 1976 budget be embodied in the Crisis Area Fund grant application.  
  
It was m/s/c to continue simple projection of budget as outlined until funds from National are made known. At that time, the Executive Committee is authorized to adopt the 1976 budget.
4. Fund raising:  
It was suggested each chapter conduct some fund-raising event, and, if possible, share some of the proceeds with the State. Chapters are cautioned against large outlay of funds for such events, which may result in loss to chapter.

AGENDA ITEM D:

1. County Jail Project is continuing.  
m/s/c the Jail Project be concluded, an analysis prepared and distributed in order that a move toward litigation be started as soon as possible.  
  
Sixteen (16) county jails have been visited and reported. Approximately forty-fifty counties included in the total project.
2. Southern Prison Ministry Proposal delayed until Joe Ingle could be present.
3. Student Rights Handbook: Charles Huddleston, student from the University of Tennessee Law School (Knoxville), representing the Tennessee Student Rights and Responsibilities Center, reported the Center is preparing a Student Rights Handbook, and requested co-operation and financial support from the American Civil Liberties Union of Tennessee. After discussion, it was m/s/c the Board recommend the American Civil Liberties Union Foundation of Tennessee appropriate up to \$1,000.00 seed money for the first printing of a Juvenile Rights handbook, in co-operation with the Tennessee Students Rights and Responsibilities Center.

Adjourned for lunch.

Meeting reconvened at 1:30 p.m.



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AGENDA ITEM D (con't.)

2. The Board heard and discussed the proposal presented by Joe Ingle of the Southern Prison Ministry.

Kramer moved the American Civil Liberties Union of Tennessee engage in a co-operative effort with the Southern Prison Ministry in an effort of co-operation to secure and protect to prisoners those rights secured to them by the Constitution of the United States and applicable State Statues. Motion seconded and carried.

Kramer moved the Board recommend to the American Civil Liberties Union Foundation of Tennessee that the Foundation instruct the Foundation's Field Director, Richard Strehlow, to secure funds to be "ear-marked" for the Prison Project. Motion seconded and carried.

AGENDA ITEM E.

1. Current Litigation. The ruling of the Tennessee State Supreme Court concerning the "Snake Handlers Case" will be appealed to a three-judge Federal Panel.
2. Ralph Moore Case: Reported by Jim Davis. Action deferred, pending review of the case by the attorneys present.
3. Americans United Case. Joel Blatt not present to report.

ITEM NOT ON AGENDA:

Chattanooga Bible Case: May refile in November. One plaintiff from City School System, one plaintiff from County School System. One attorney in Chattanooga is willing to assist the co-operating attorney.

AGENDA ITEM F.

1. February Leadership Conference at Gatlinburg.  
Proposed dates for Conference: One of the last two week-ends in February.  
A possible alternative to Gatlinburg was suggested: Highlander Center (near Knoxville). Definite location and exact date to be determined.  
  
Proposed ideas relative to the retreat:
  1. Chapter organization and day to day operation.
  2. Membership development
  3. Type(s) of cases co-operating attorneys be asked to take.
  4. In what way(s) the services of co-operating attorneys may be used to the best advantage.
  5. How can "urban" chapters expend services to area for which chapter is responsible
  6. How to get American Civil Liberties Union into educational institutions
  7. Fund raising
  8. How to get "grass roots" membership involved
  9. Effective press relations.

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10. Study Florida ACLU Operations Manual prior to meeting.
  11. Steering Committee to structure meeting.
  12. Other organizations with which ACLU might co-operate.
  13. ACLU Foundation development and function.
  14. Chapters are requested to send other suggestions to State Office, in order of priority.
  15. Oak Ridge Area Chapter called attention to the need for pursuing legislation (drafting and proposing legislation).
2. Proposal for Clarksville Chapter.  
The need to "shore-up" existing chapters and establish new chapters was made a part of the Crisis Area Fund Grant Request. Most likely areas to need chapters are:
- a. Clarksville, Tennessee - Colleges and Military Base in area.
  - b. Jackson, Tennessee - Four Colleges in area.

Googin moved Clarksville Chapter development be explored. Motion seconded and carried.

3. Membership Campaign.  
Chapters must engage in membership campaign this fall. This is essential to maintaining a full time director. Chapters must assume the responsibility for most of the work, i.e. personal recruitment, personal contacts, personal mailings followed up by personal contact.

It was suggested the format for membership development used by the Massachusetts Affiliate be sent to each chapter.

Copies of the new "ACLU Manual of Organization" were distributed to each Chapter Representative. Essential general information for membership development is included in this document. This document is the property of the Chapter and should be passed from Chairperson to Chairperson. Since the manual is not complete, additions to it will be forthcoming.

Childers moved that membership campaigns be emphasized during the month of November, with each Chapter responsible for own efforts. Motion seconded and carried.

CONTINUING AGENDA ITEM E-2:

2. After attorneys present conferred concerning the Ralph Moore Case, Arnold recommended \$190.00 as an appropriate amount to assist in the Ralph Moore appeal to the Sixth Circuit Court of Appeals. The issue concerns the right to picket.  
Hamlin moved \$190.00 be appropriated for the Ralph Moore Case. Motion seconded and carried.

CONTINUING AGENDA ITEM E-3:

3. Americans United Case. Deferred to Executive Committee due to absence of Joel Blatt.
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AGENDA ITEM G:

- 1 and 2. Concept of Small Claims Courts and proposing legislation postponed until Workshop. Made an item on suggestions for Workshop.
3. Committee on Revision of Tennessee Code.  
Kramer reported he will explore further; will ask certain lawyers to take specific sections of the code, will bring recommendations to the State Board and, with the approval of the Board, submit siad recommendations to the appropriate persons in the State Legislature.  
m/s/c that Kramer chair the committee reviewing the Tennessee Code.

H. Announcements:

ACLU pamphlet STOP S-1 (United States Senate - Bill 1).  
Suggest members take personal interest. The following was suggested:

1. Write or call your senator and ask for a copy of S.B.1 indication that you have heard of its repressive nature.
2. Check through the bill yourself (ACLU pamphlet may be used as a guide).
3. Write your senator a second letter about those sections that you feel most strongly should be eliminated or changed and ask that he work to amend or vote against the bill.
4. Write your representative pointing out the anti-civil libertarian features and indicating your concern.
5. Contact your local newspapers and urge them to run stories and editorials on the bill.

The meeting adjourned at 3:55 p.m.

Respectfully submitted,

DOT SMITH  
Secretary



AMERICAN CIVIL LIBERTIES UNION FOUNDATION COMMITTEE OF TENNESSEE

Minutes of the Meeting of October 4, 1975

Vanderbilt University Club - Nashville

The meeting was called to order at 4:00 p.m. by the Chairperson, Delton Pickering.

Members present were: Bob Allen, Phil Arnold, Pat Bing, Judy Bodley, Peter Bowman, Jim Bryan, David Camp, Sydney Childers, John W. Cleland, Reina S. Cleland, James Davis, John Googin, Betty C. Griffith, H. Phillips Hamlin, Joe Ingle, Southern Prison Ministry, Guest, Bridget Jodell, Virginia Jones, Chan Kendrick, Bruce Kramer, Harvey D. Medearis, Jim Muir, Diantha Paré, Claire L. Peterson, Delton Pickering, Dot Smith, Charles Washington, Mary Wilder.

Kramer moved the Foundation Committee co-operate with the Tennessee Students Rights and Responsibilities Center in the publication of Students Rights Handbook and contribute \$1,000.00 toward the publication of said handbook. The motion amended to state that the first printing be distributed without cost to the recipient and that a committee of the Foundation be consulted on the second printing and distribution. The motion was seconded and carried as amended.

Designation of persons to serve on committee to work with the Tennessee Student Rights and Responsibilities Center in the publication of a Students Rights handbook: Bill Baird, David Camp, Diantha Paré, Dot Smith, Mary Wilder and Walter Mickulick.

Kramer moved the Foundation Field Director, Richard Strehlow, be authorized to engage in fund raising efforts to obtain funds to work with the Southern Prison Ministry - Prison Rights Program. Motion seconded and carried.

The meeting adjourned at 4:40 p.m.

Respectfully submitted,

DOT SMITH, Secretary

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