the material was libelous, obscene, or unlawful; advertised products or services for sale; endorsed a candidate for public office; promoted alcohol, tobacco, drugs, or other illegal activity; or was likely to cause substantial disruption at the school. If approved, the material could be distributed either in front of the administrative offices or at a table in a corner of the cafeteria. The plaintiffs amended their complaint to include the new policy. The District argued that plaintiffs were not entitled to a permanent injunction because adoption of the new policy made the challenge to the past practice of Bible distribution moot. The district court applied the test in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), and concluded that the new policy violated the Establishment Clause because its purpose was "the promotion of Christianity" and its primary effect was "advancing religion by conveying a message of endorsement to elementary school children."

The U.S. Court of Appeals for the Eighth Circuit affirmed the judgment of the district court granting a permanent injunction, but reversed the district court's grant of a declaratory judgment. The declaratory judgment – that plaintiffs "shall have judgment against defendants ... on plaintiffs' complaint" was improper because the precise import of the declaratory judgment was "hopelessly obscure. Given its impact on the operations of a state governmental entity, this ambiguity alone require[d] reversal." Second, a declaratory judgment prohibiting implementation of the policy was both unnecessary and inappropriate, as the policy had never been implemented and was "constitutionally permissible in a host of other applications." Turning to the injunction, the court addressed the District's argument that the permanent injunction "impermissibly mandate[d] a content-based restriction on speech in the limited public forum created by the content-neutral [new] policy." The injunction was based on a judicial determination that the District had impermissibly endorsed a particular religion and its scope was facially reasonable. More specifically, it did not address the new policy or prescribe how the District could distribute other materials to students, and left open the possibility that the District might, in a neutral manner, facilitate Bible distribution by private parties, such as the distribution of flyers advertising off-campus or after-school distributions. *Roark v. South Iron R-1 School District*, 573 F. 3d 556 (8th Cir. 2009).

Litigation and Liability
Evidence of "Suicide by Cop"

Boyd was shot and killed by Officer Paine of the San Francisco Police Department after Boyd had attempted two separate kidnappings earlier that day. One of the victims called police and a high-speed chase of Boyd ensued. During the chase, Boyd fired at the pursuing officers. When Boyd pulled over, officers surrounded his car and ordered him to get out with his hands over his head and lie on the ground. Witnesses testified that Boyd put his hands up, walked towards the officers, then returned to his car. When Paine realized Boyd was reaching back into his vehicle with both hands, he fired three times, fatally wounding Boyd. Two weeks previously, police had stopped Boyd and found his rap lyrics, which advocated the murder of police officers; three days before the shooting, Boyd had been apprehended for reckless driving and struggled with the arresting officers, repeatedly screaming at them "kill me," and calling them "filthy white racists." The Boyd family sued San Francisco, alleging the police used excessive and deadly force. In its defense, the municipality relied on the expert testimony of Dr. Emily Keram, a forensic psychiatrist, who concluded that Boyd had been attempting "suicide by cop" – that he had purposefully drawn the police officers' fire to accomplish this result. The plaintiffs objected to the admission this testimony and to other evidence regarding Boyd's past (prior lawsuits filed by him or by his mother on his behalf against law enforcement agencies, evidence of his prior arrests, evidence of the rap music lyrics, and evidence that he was on drugs at the time of the shooting). After trial, a jury ruled in favor of the defendants and the plaintiffs appealed, arguing that the district court abused its discretion in allowing the admission of improper evidence at trial.

On appeal, the U.S. Court of Appeals for the Ninth Circuit affirmed. As Officer Paine did not know the evidence of Boyd's past prior to shooting Boyd, the only issue in front of the jury was whether Paine's actions were reasonable based on his perspective at the time. "Under the relevancy analysis prescribed by the Federal Rules, all of [this] challenged evidence was properly admitted, since it had a tendency to make a fact of consequence more or less probable. … police assertions that [Boyd] was acting erratically, taunting police and goading them to shoot him instead of following police commands, is made more probable by [Boyd's] earlier statements to Oakland police, as well as evidence that he was on drugs at the time." His alleged resistance to the police was "also made more probable by evidence, in the form of expert testimony, that his actions were consistent with an attempt to commit suicide by cop." Addressing the expert testimony in light of Federal Rule of Evidence 702, the court below had ultimately concluded that Dr. Keram's testimony was based on a reliable foundation and was relevant to the issues before the court. The "suicide by cop" theory was supported by numerous studies and "Dr. Keram was careful to tie her conclusions in this case to the literature on suicide by cop, noting recognized factors or connections supporting her opinion." The plaintiffs did not dispute the existence of articles in support of the theory or present evidence, outside of their own assertions, that the theory was unreliable. With the exception of part of its ruling on the rap lyrics, the district court did not abuse its discretion in admitting the evidence or Dr. Keram's testimony. *Boyd v. City and County of San Francisco*, No. 07-16993, 2009 WL 2413794 (9th Cir. August 07, 2009).

Personnel and Employment
Employment Discrimination

Hobbs, an African-American woman, had worked for the City of Chicago since 1989 as a "Motor Truck Driver" in the City's Department of Transportation (DOT). In 2000, she was given new responsibilities as a lot supervisor, being