

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 › MADISON, WI 53701 › (608) 256-8900 › WWW.FFRF.ORG

January 13, 2023

SENT VIA EMAIL AND U.S. MAIL: ddurant@decaturcounty.in.gov

Sheriff Dave Durant
Decatur County Sheriff's Department
601 South Ireland Street
Greensburg, IN 47240

Re: Multiple constitutional violations

Dear Sheriff Durant:

I am writing again on behalf of the Freedom From Religion Foundation (FFRF) regarding multiple constitutional violations occurring in the Decatur County Sheriff's Department. We first wrote to you on July 14, 2022 regarding the Sheriff's Office promoting Christianity and coercing prisoners into participating in religious exercises. It is our understanding that the Sheriff's Office has continued to push Christianity onto inmates. A recent Facebook post from December 29, 2022 shows inmates being baptized along with the message:

What a great way to celebrate Christmas and a New Year! DCDC Chaplain Dave Burnett along with REC members baptized nearly 40 men and women after a personal, public profession of Jesus Christ in their lives. Over the past four years, nearly 300 men and women have given their life to Jesus Christ while incarcerated at the Decatur County Detention Center. All glory to GOD!

Other recent posts indicate the Sheriff's Office has continued implementing its Christian "Residents Encounter Christ" program. Please see the enclosed screenshots.

We write to ensure that the Decatur County Sheriff's Department ceases its promotion of, and official affiliation with, Christianity on its official social media pages and through its religious events, programs, and activities in violation of the Establishment Clause of the First Amendment. While the DCDC may permissibly accommodate the free exercise rights of its inmates by providing opportunities for religious worship, Decatur County and its employees may not organize, promote, participate in, or coerce inmates into participating in these religious events and programs.

It is a basic tenet of Establishment Clause jurisprudence that the government is prohibited from taking action that advances, shows preference for, or coerces individuals to participate in religion. See, e.g., *Zelman v. Simmons-Harris*, 536 U.S. 639, 648-49 (2002); *Van Orden v. Perry*, 545 U.S. 677, 683 (2005). The Establishment Clause prohibits government sponsorship of religious messages. The Supreme Court has said time and time again that the Establishment

Clause “mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005). This prohibition applies equally to law enforcement. See *Milwaukee Deputy Sheriff’s Ass’n v. Clarke*, 588 F.3d 523, 525-26 (7th Cir. 2009) (holding religious speech by a sheriff, bible readings, and distribution of Christian literature during mandatory employee meetings unconstitutional under the Establishment Clause).

As you are aware, citizens interact with and rely on law enforcement officers during some of the most urgent and vulnerable times of their lives. As Sheriff, you serve a diverse population that consists of not only Christians, but also minority religious and nonreligious citizens. We hope you will agree that the Sheriff’s Department must be even-handed and avoid any appearance of bias toward some citizens, or hostility toward others. The promotion of Christianity by your department sends a message that excludes the 37 percent of Americans who are non-Christian, including the nearly one in three Americans who identify as nonreligious.¹ The Department’s public support of religion, and specifically Christianity, needlessly alienates the non-Christian and nonreligious citizens in Decatur County, turning them into political outsiders in their own community.

Government employees can worship, pray, or quote any religious text they wish when acting in their personal capacities. But they are not permitted to use the machinery of a government office to advance their personal religion. The Sheriff’s Department is meant to serve “We the people.” As Sheriff, you are charged with great responsibility and have been given significant trust by citizens in your community, including those citizens who do not share your religious viewpoint.

You should also note that the Sheriff Department’s promotion of Christianity needlessly jeopardizes taxpayer dollars by exposing the county to legal liability. Not long ago the sheriff’s office in Bradley County, Tennessee agreed to pay more than \$40,000 in damages and attorneys’ fees after promoting religion on social media and ignoring objections to the practice. *American Atheists v. Watson*, No. 1:2016cv00118 (E.D. Tenn. filed May 6, 2016).

While it is commendable to facilitate prisoners freely exercising their chosen religious or nonreligious beliefs, it is inappropriate for the Decatur County Sheriff’s Department to organize, participate in or promote any religious event in ways that make it appear that the government supports the event or the underlying religious beliefs. By organizing Christian events intended to convert people to Christianity, and celebrating those conversions on official social media, the Sheriff’s Department creates the appearance that it, and by extension Decatur County, prefers Christianity over all other religions and religion generally over nonreligion.

Taken as a whole, it is obvious that the Department’s motive in planning and promoting inmate baptisms, the REC program, and the MRT program is not simply to accommodate inmates, but to advance Christianity and coerce inmates and the broader Decatur County community to adhere to the tenets of Christianity. The DCDC is actively coercing inmates to participate in its religious programming, which is rampant throughout the Department. Any inmate aware of the DCDC’s

¹ Gregory A. Smith, About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated, Pew Research Center (Dec. 14, 2021), www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.

official support for, and celebration of inmates participating in, religious programs will not feel free to decline to participate. This is constitutionally impermissible. The government cannot legally itself host sectarian religious events in its facility, or promote them in its official capacity. Nor can it use a County corrections center, with a literal captive audience, to proselytize and convert inmates to Christianity.

To avoid further Establishment Clause concerns and to protect the rights of its inmates and the general public, the Decatur County Sheriff's Department must refrain from promoting religion on social media and cease its coordination of religious programs and events. Please inform us of the steps you are taking to rectify these constitutional violations so that we may inform our many complainants.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosures



Decatur County Sheriff

December 29, 2022 at 8:39 AM · 🌐



What a great way to celebrate Christmas and a New Year! DCDC Chaplain Dave Burnett along with REC members baptized nearly 40 men and women after a personal, public profession of Jesus Christ in their lives. Over the past four years, nearly 300 men and women have given their life to Jesus Christ while incarcerated at the Decatur County Detention Center. All glory to GOD!

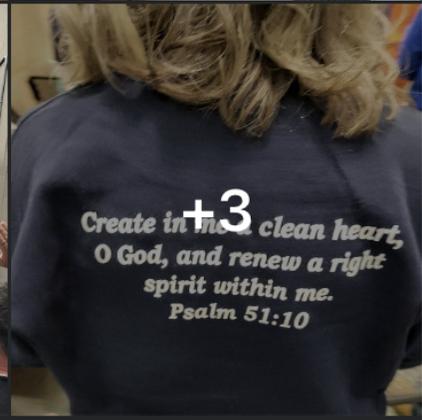
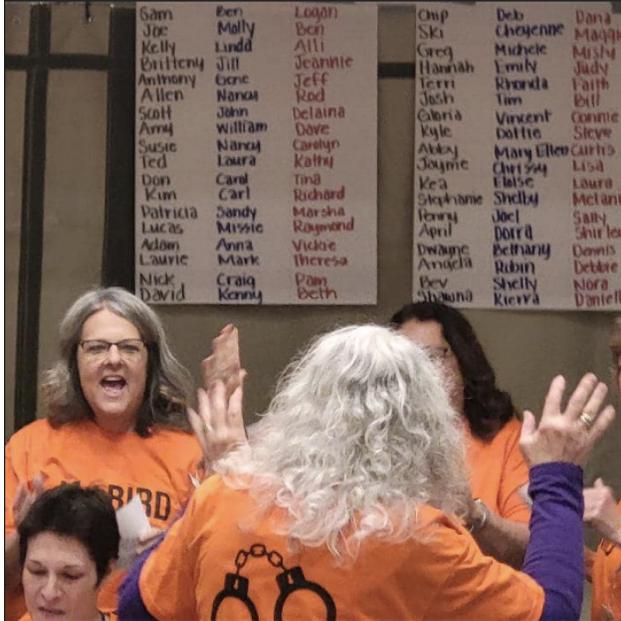




Decatur County Sheriff

November 13, 2022 · 🌐

This weekend the Decatur County Sheriff's Office held it's women's Residents Encounter Christ (REC) program inside of our Detention Center. 24 women volunteered to participate in a life-changing weekend encountering Jesus Christ. Sheriff Durant would like to thank all of our churches that have volunteered in not only this weekend but every REC held since 2019. Over 250 men and women have made a public profession for Christ. God Bless Decatur County!





Decatur County Sheriff

November 6, 2022 · 🌐

Men's Residents Encounter Christ (REC) was conducted this weekend in our Detention Center. Lives are being transformed through real change in Jesus. 84 inmates requested to go with 24 selected through a blind drawing. This voluntary program is changing Decatur County from the inside out!

