

FREEDOM FROM RELIGION *foundation*

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July 15, 2019

SENT VIA U.S. MAIL & EMAIL TO: greg.white@covcounty.com

Covington County Commission
Attn: Chairman Gregory White
P.O. Box 188
Andalusia, AL 36420

RE: Further unconstitutional conduct on Sheriff's Department's Facebook page

Dear Chairman White and Members of the Commission:

In the time since FFRF wrote its June 28 letter to the Commission, there have been three notable developments: the Sheriff's Department changed the name of its Facebook page from "Covington County Sheriffs [sic] Department" to "Covington County Sheriff Blake Turman"; a moderator of the Facebook page deleted a number of comments critical of the Department from at least two posts on the page; and the Second Circuit Court of Appeals ruled in *Knight First Amendment Institute v. Trump* that the President's Twitter feed is a government-run forum and that denying citizens equal access to read and post comments on his feed violated their First Amendment rights. No. 18-1691 (2d Cir. July 9, 2019). Each of these developments has implications for the County's legal liability.

Per the Second Circuit's July 9 decision, a public figure's social media account is considered an official government account when it is presented to the public with the hallmarks of being state-run. Those hallmarks include the public official's name and title appearing on the account, the account being used "as a channel for communicating and interacting with the public" about a public office, and that the account is generally used as a vehicle "for conducting official business." No. 18-1691 at 7-9. A public official that owns and operates a publicly-available social media account with the purpose of discussing official government business and interacting with constituents shows a "substantial and pervasive government involvement" with the account. *Id.* at 17.

Under this analysis, the "Covington County Sheriff Blake Turman" page, like Donald Trump's Twitter account, is a government account. In our previous letter to the County we noted the page's February 3 post announcing "this Facebook page is for building our law enforcement community and keeping the public informed of what we are doing at the Covington County Sheriffs Department." This page is regularly used "to announce matters related to official government business," such as the July 9 post explaining to Covington County residents the need for the Sheriff's Department to run background checks on those renewing pistol permits. See enclosed image. And, as with the President's Twitter account, it is relevant that other Sheriff's Department employees have access to post from the account and maintain it. *Compare*

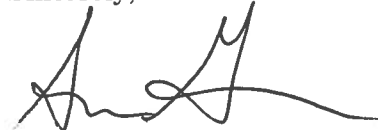
id. at 18 (“The President utilizes White House staff to post tweets and to maintain the Account.”) *with* the Facebook account’s July 1 post by Chief Deputy Todd Grimes, enclosed. Finally, any delusions entertained by the Department that changing the name of the page from “Covington County Sheriffs Department” to “Covington County Sheriff Blake Turman” would cause the page to be viewed as private can be safely rejected. The page’s title is now even more closely analogous to the President’s Twitter account, titled “Donald J. Trump, 45th President of the United States of America.”

A public official violates the First Amendment when that official blocks or otherwise censors citizens with opposing viewpoints in a public forum. *Id.* at 21. In its decision the Second Circuit noted that even if “government control over property is temporary” and “the government does not ‘own’ the property in the sense that it holds title to the property,” the property may remain “sufficiently controlled by the government to make it a forum for First Amendment purposes.” *Id.* at 16–17. Thus, the comment section of a government-run social media account is a public forum where the government cannot engage in viewpoint discrimination by limiting the ability for citizens to participate and interact with others by posting comments critical of the government. *Id.* at 24, 27.

Shortly after FFRF wrote its previous letter to the County, a number of citizens accessed two posts on the Sheriff’s Department’s Facebook page, both from July 1, and posted comments critical of the Department’s promotion of religion. A page moderator subsequently cultivated the comments on both posts by deleting critical comments but leaving comments that expressed support for the Sheriff’s Department’s actions. Deleting citizen comments from the County Sheriff’s Department Facebook page based on their expressed opinions is viewpoint discrimination. Just as in *Knight First Amendment Institute*, this action violates the First Amendment rights of those who posted comments.

Because recent developments further solidify the constitutional violations taking place on the “Covington County Sheriff Blake Turman” Facebook page, we repeat our request that the page be discontinued. So long as the page continues to operate, the County is exposing itself to a potential lawsuit from any County citizen who objects to the censorship of their speech and the promotion of Christianity by their local government. FFRF has represented citizens in similar situations in the past and would be more than willing to do so in this instance.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Grover", with a long horizontal flourish extending to the right.

Sam Grover
Associate Counsel

CC: Members of the County Commission *via* kenneth.northey@covcounty.com;
joe.barton@covcounty.com; tony.holmes@covcounty.com; kyle.adams@covcounty.com
Sheriff Blake Turman *via* blake.turman@covcounty.com



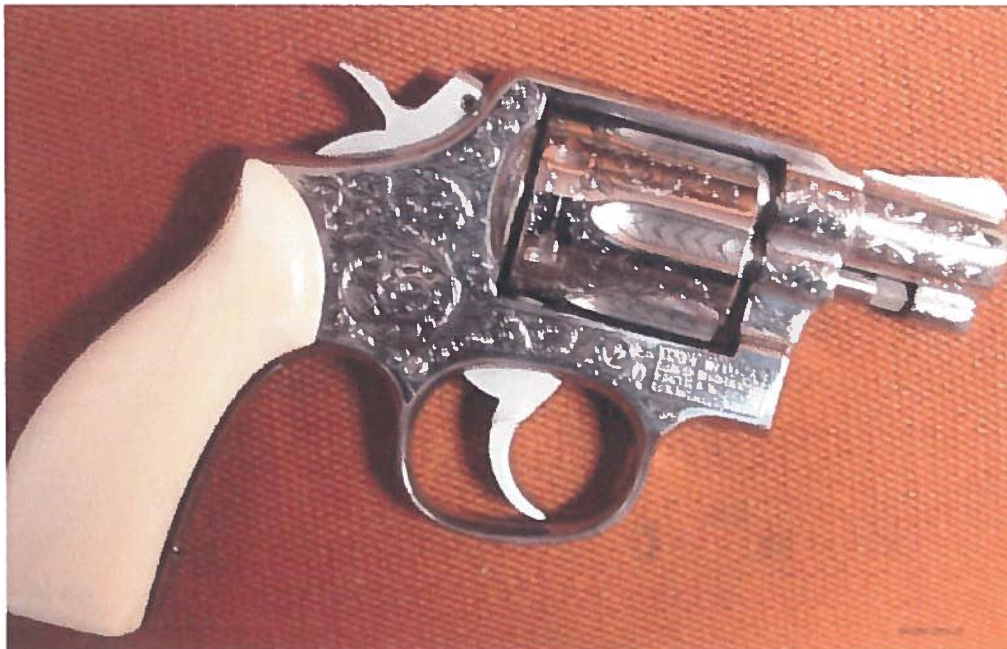
Covington County Sheriff Blake Turman

July 9 at 2:08 PM · 🌐



Hey guys, I would like to clear a few things up about pistol permits. In the many years past, you could renew your permit immediately and have it in your hand. Unfortunately, that's not the case anymore. Law requires all Sheriff's to run checks on all applicants, new or old. I know it's a bit of an inconvenience, but I agree with the law. Case in point... guy walks in with an expired or about to expire permit. He is checked through the system and he has a conviction for a sex crime, a felony drug charge, the list goes on. He didn't have these convictions when he was issued his last permit. Checking him keeps us from condoning or approving him to carry concealed. I know that criminals don't care, but honest folk do. I've had to pull some permits and not issue some. We gotta do our part to protect the weak.

If these criminals are caught with a gun and no permit, we have a means to make the needed arrest. If they have a permit, well.... we'd have to cut them loose. Thank you all for allowing me to ensure the right folks have permits. It's not a perfect system but we will work on it diligently to make improvements. God bless y'all and Covington County!!!





Covington County Sheriff Blake Turman

July 1 at 6:39 PM · 🌐



Hello friends! This is Todd Grimes, your Chief Deputy in Covington County who if I may add is currently off duty. I must say that I am deeply saddened to see that many of you this evening are being subjected to a high level of hostility on your comments made on this page. Most all these individuals who are making these comments are not even from the area much less from Alabama.

The Sheriff and I will continue to pray for all these people and show nothing but love and forgiveness. Please refrain from giving them the satisfaction of disrupting your life by responding to their comments. We make no apologies for being a Christian and send EVERYONE our prayers.