FREEDOM FROM RELIGION *foundation*

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June 16, 2016

SENT VIA U.S. MAIL & EMAIL
shutchens@ocsd.org

Ms. Sandra Hutchens
Orange County Sheriff-Coroner
550 N Flower St.
Santa Ana, CA 92703

Re: Public Official Participation in National Day of Prayer Event

Dear Sheriff Hutchens:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to public officials' participation in a National Day of Prayer event. We were contacted by a concerned local resident. FFRF is a national nonprofit organization with nearly 24,000 members across the country, including more than 3,200 members in California and a state chapter, FFRF Greater Sacramento. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that your undersheriff spoke in his official capacity at the Mission Viejo All City Prayer Meeting, held on May 5th in conjunction with the National Day of Prayer. Our complainant informed us that Undersheriff Don Barnes spoke at the event in full uniform. See attached photo. We were also informed that he made statements such as "We know the power of prayer" and "[r]emember to pray, remember to support us" at the event.

As you may be aware, the National Day of Prayer is a sectarian event. It originated with Rev. Billy Graham during his evangelical crusade in Washington, D.C. in 1952. He expressed an openly Christian purpose, seeking such an annual proclamation by the President because he wanted "the Lord Jesus Christ" to be recognized across the land. Subsequently, the National Day of Prayer Task Force was created to "communicate with every individual the need for personal repentance and prayer, mobilizing the Christian community to intercede for America and its leadership." Chair Shirley Dobson or her designate issues annual National Day of Prayer proclamations and submits them to the President, choosing a theme with supporting scripture from the bible. The task force's stated goal is to pressure as many mayors and other elected officials as possible to also issue National Day of Prayer proclamations. Coordinators, volunteers and speakers at task force events must share the view that the bible is inerrant and "there is only one Savior and only one gospel."

As sheriff, you represent a diverse population that consists of not only Christians, but also atheists and agnostics who do not believe in prayer. Your officer's active participation in the Mission Viejo All City Prayer Meeting in his official capacity while in uniform unabashedly promoted a religious event, sending an official message of endorsement of religion over non-religion and of exclusion to the one in five Americans and one in three Americans under 30 who are not religious.[1] It alienates non-Christians and nonbelievers in Orange County by turning them into political outsiders in their own community.

[1] "Nones on the Rise: One-in-Five Adults Have No Religious Affiliation," Pew Research Center, The Pew Forum on Religion & Public Life (October 9, 2012), *available at* http://www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx.

The Establishment Clause in the First Amendment to the U.S. Constitution prohibits government sponsorship of religious messages. The Supreme Court has said time and again that the "First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion." *McCreary Cnty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Board of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). Sheriff Barnes' participation in this event in his official capacity sends the message that he, as undersheriff, and the Orange County Sheriff's Department prefer and endorse the Christian faith.

The separation between state and church is among one of the most fundamental principles of our system of government. The Supreme Court has specifically stated, "If there is any fixed star in our constitutional constellation, it is that **no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.**" *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) (emphasis added).

Government officials can worship, pray, and participate in religious events in their personal capacities. But they are not permitted to provide credibility or prestige to their religion by lending a government office, a government title, and a government uniform to religious events. Their office and title belong to "We the people," not the office's temporary occupant. Sheriff Barnes took an oath of office to uphold the secular U.S. Constitution, and must scrupulously avoid using his public office to promote or advance his personal religious beliefs.

As a matter of policy, government sponsorship of an All City Prayer Meeting event is inappropriate and unnecessary. Promotion of prayer by county officials raises the distasteful appearance of pandering to appeal to or appease a vocal Christian evangelical constituency, and even when other faiths are included in prayer events, the nonbelievers are still excluded.

The sheriff's department is charged with great responsibility and has been given significant trust by citizens, including those citizens who may not share employees' personal religious viewpoints. Leaving prayer as a private matter for private citizens is the wisest public policy. (As an aside: government action that may suggest that such civic duties require divine intervention hardly inspires public confidence.)

We appreciate the courtesy of your attention to this matter, and encourage the Orange County Sheriff's Department to stand up for the precious constitutional principle of the separation between church and state, which unites and protects all citizens, believers and non-believers alike. Please inform us in writing of the steps you are taking to ensure this constitutional violation does not recur.

Sincerely,

Madeline Ziegler

Madeline Ziegler, Esq.
Cornelius Vanderbroek Legal Fellow
Freedom From Religion Foundation

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