

# FREEDOM FROM RELIGION *foundation*

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June 20, 2016

**SENT VIA EMAIL & U.S. MAIL**

**eparrey@trentonpolice.net**

Mr. Ernest Parrey, Jr.  
Police Director  
Trenton Police Department  
225 N. Clinton Avenue  
Trenton, NJ 08609

Re: Proposed Program for Juvenile Offenders

Dear Police Director Parrey:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the practice of transporting juveniles who have broken curfew to churches for counseling. We were contacted by a concerned citizen. FFRF is a nationwide nonprofit organization with nearly 24,000 members across the country, including more than 450 members in New Jersey. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that the Trenton Police Department intends to institute a program wherein juveniles who have broken the curfew law will be taken to churches for “counseling.”<sup>1</sup>

The Code of the City of Trenton § 58-6(D) outlines how juveniles who have broken curfew will be processed: “The normal procedure shall then be to take the juvenile to the police station where a parent or guardian shall immediately be notified to come for the juvenile whereupon they shall be questioned.” Chapter 58 makes no mention of churches and in no way authorizes the transporting of children to churches for counseling. The program the TPD intends to install represents a distressing departure from city ordinances and the U.S. Constitution.

This proposal is an egregious violation of the First Amendment. It is a bedrock principle of constitutional law that the state cannot coerce citizens to participate in religious practices. As the Supreme Court has said, “It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way which ‘establishes a [state] religion or religious faith, or tends to do so.’” *Lee v. Weisman*, 505 U.S. 577, 587 (1992).

The courts have uniformly struck down less serious violations of the rights of offenders and other citizens. *See West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943)(Striking down coerced flag salute in school); *Inouye v. Kemna*, 504 F.3d 705 (9<sup>th</sup> Cir. 2007)(Parole officer violated clearly established constitutional right in coercing attendance at 12 step program); *Kerr v. Farrey*, 95 F.3d 472 (7<sup>th</sup> Cir. 1996)(Prison violated establishment clause in coercing 12 step program

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<sup>1</sup> [http://www.nj.com/mercer/index.ssf/2016/06/trenton\\_police\\_will\\_begin\\_curfews\\_july\\_1\\_for\\_teens.html](http://www.nj.com/mercer/index.ssf/2016/06/trenton_police_will_begin_curfews_july_1_for_teens.html).

attendance); *Anderson v. Laird*, 466 F.2d 283,285 (D.C. Cir. 1972) (Ruling military service academies could not require attendance at religious services).

It is not surprising that Chapter 58 does not allow for transporting juvenile offenders to churches for counseling because as a government agency providing youth counseling, the TPD has a duty to remain neutral towards religion because of the children involved. In *Langlotz v. Picciano*, 683 F.Supp. 1041 (E.D. Va. 1988), the federal court discussed Establishment Clause concerns relating to a juvenile court counselor. The court said, “The Juvenile Court, as a state government institution, has a duty to ensure that its employees, in their roles as state employees, do not encourage or promote one religion over other religions or any religion over non-religion.” *Id.* at 1049 (citations omitted). In sum, a government-sponsored program cannot advance religion, especially to juveniles.

Overall, 23% of Americans identify as nonreligious.<sup>2</sup> Nationally, about 35% of millennials—those born after 1981, i.e., the juveniles your proposed program will affect—are nonreligious.<sup>3</sup> In effect, your program will force a very large number of nonreligious citizens to endure the “counseling” of a religious practitioner from a religion they do not observe. This is improper.

The proposed program also shows a clear and unconstitutional favoritism for religion over nonreligion. The First Amendment “requires the state to be neutral in its relations with groups of religious believers and non-believers.” *Everson v. Board of Ed.*, 303 U.S. 1, 18 (1947); *see also Texas Monthly, Inc. v. Bullock*, 489 U.S. 1, 27-28 (1997) (separate opinion concurring in judgment) (the “government may not favor religious belief over disbelief”); *Abington v. Schempp*, 374 U.S. 203, 305 (1963) (Goldberg, J., concurring) (“The fullest realization of true religious liberty requires the government . . . effect no favoritism among sects or between religion and nonreligion.”) (emphasis added); *Allegheny v. ACLU*, 492 U.S. 573, 593 (1989) (“[T]he prohibition against governmental endorsement of religion ‘preclude[s] government from conveying or attempting to convey a message that religion or a particular religious belief is favored or preferred’”) (quoting *Wallace v. Jaffree*, 472 U.S. 38, 70 (1985) (O’Connor, J., concurring in judgment)) (additional emphasis added).

The proposed program of transporting juvenile offenders to churches for counseling cannot legally be implemented. The best approach by the TPD is to provide secular support services and to leave determinations on religious support to individuals and their families. Please inform us in writing of the steps you will take to remedy this matter.

Sincerely,



Andrew L. Seidel  
Staff Attorney

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<sup>2</sup> *America’s Changing Religious Landscape*, Pew Research Center (May 12, 2015), available at [www.pewforum.org/2015/05/12/americas-changing-religious-landscape/](http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/).

<sup>3</sup> *Id.*