

FREEDOM FROM RELIGION *foundation*

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

June 28, 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: Religious promotion on social media

Dear Chairman White and Members of the Commission:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert Covington County to unconstitutional religious promotion by the County Sheriff's Department. FFRF is a national nonprofit organization with the purposes to protect the separation between church and state and to educate the public on matters of nontheism. We have over 31,000 members across the country, including many members in Alabama.

A Covington County resident recently contacted FFRF to report that the official Covington County Sheriff's Department Facebook page (www.facebook.com/Covington-County-Sheriffs-Department-281662659175138/) regularly promotes Christianity. On June 24, Covington County Sheriff Blake Turman received a letter from FFRF outlining why the religious promotion on this Facebook page violates the Establishment Clause of the First Amendment, as well as the religious freedom and right of conscience of all Covington County residents. A copy of that letter is enclosed.

That same day, June 24, Sheriff Turman sent FFRF a rude and frankly ignorant response in which he invited our complainant to "be a man," observed that I "live 1000 miles from [Turman] and probably have never even been to Covington County," and that because "there are 240 million Christians in the United States" that "we [Christians] outnumber [FFRF]." A copy of that response is also enclosed.

We write to request that Covington County take steps to ensure that Sheriff Turman and the County's Sheriff's Department cease impermissibly promoting religion on behalf of the County. While FFRF's original letter speaks for itself, I have addressed Sheriff Turman's more salient points below.

Sheriff Turman claims that the Facebook page in question is his "personal blog page," but the facts do not bear out that claim. The page is entitled "Covington County Sheriffs [sic]

Department” and the page regularly reports on the official business of the Sheriff’s Department.¹ Furthermore, the page was created in January 2019, directly after Mr. Turman became sheriff, and an early post on the page announces that the very purpose of the page is “keeping the public informed of what we are doing at the Covington County Sheriffs [sic] Department” (see enclosed image). Finally, Sheriff Turman has two separate personal Facebook pages, unrelated to the official Sheriff’s Department page: “Blake and Kim Kelly Turman” (www.facebook.com/blake.turman.7) and a campaign page: “Blake Turman for Sheriff of Covington County” (www.facebook.com/turmanforsheriff/). Based on these facts, any reasonable observer would conclude that the Covington County Sheriff’s Department page reflects the official positions of the Sheriff’s Department and, by extension, Covington County.

Even if this Facebook page was conceived as a personal page, as Sheriff Turman implausibly claims, courts have been willing to treat accounts that elected officials believe to be private as official government accounts when they are used to disseminate official government communications. *See, e.g., Hawaii v. Trump*, 859 F.3d 741, 773 n. 14 (9th Cir. 2017) (noting that the President’s personal Twitter feed is composed of “official statements by the President of the United States”); *Davison v. Randall*, 912 F.3d 666 (4th Cir. 2019) (holding that chair of county supervisors acted under color of state law in maintaining “Chair Phyllis J. Randall” Facebook page); *Robinson v. Hunt Cty.*, 921 F.3d 440 (5th Cir. 2019) (finding that a county sheriff acted with final policymaking authority when he created a Sheriff’s Office Facebook page). We see no legal reason why the “Covington County Sheriffs Department” Facebook account would be treated any differently.

Secondly, Sheriff Turman suggests that the Facebook page does not violate the Establishment Clause because “Separation of Church and State was never even penned in the Constitution.” We hope that you are not swayed by Sheriff Turman’s regurgitation of this Christian nationalist talking point. Still, it might be prudent to explain to the chief law enforcement officer in Covington County that he must respect citizens’ “right to privacy,” “right to remain silent,” and the host of other rights they enjoy as Americans despite these words also not appearing in the Constitution.

America’s Founders and Supreme Court have long understood that the First Amendment creates a wall of separation between church and state. In a letter penned while he was President, Thomas Jefferson definitively stated that when the “American people. . . declared that their legislature should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’” they erected “a wall of separation between Church & State.”² In 1879, the Supreme Court stated that these words by Mr. Jefferson could be “accepted almost as an authoritative declaration of the scope and effect of the [First]

¹ Sheriff Turman even posted his official response to FFRF’s letter on this page, demonstrating how deeply confused he is over the proper delineation between his official and personal capacities.

² *Extract from Thomas Jefferson to the Baptist Association of Danbury, Connecticut*. Thomas Jefferson’s Monticello, available at <http://tjrs.monticello.org/letter/199>.

[A]mendment thus secured.” *Reynolds v. U.S.*, 98 U.S. 145, 164 (1878). In the 1940s the Supreme Court was even clearer, stating that “the clause against establishment of religion by law was intended to erect a wall of separation between church and state.” *Everson v. Bd. of Ed. of Ewing Tp.*, 330 U.S. 1, 16 (1947).

Accordingly, the Supreme Court has long held that the Establishment Clause goes beyond merely prohibiting the government from recognizing an official state religion; indeed, the Court has found that the First Amendment “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); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson*, 330 U.S. at 15–16. By posting religious messages on the Sheriff Department’s official Facebook page, Sheriff Turman jeopardizes taxpayer dollars by exposing the county to legal liability. The sheriff’s office in Bradley County, Tennessee recently 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). And Maryland recently paid \$65,000 to cover legal fees after Governor Hogan blocked 450 people for posting critical comments on Facebook.³ There is no need to expose the Covington County to similar liability by allowing this practice to continue.

We ask that Covington County take steps to ensure that Sheriff Turman does not promote his personal religious beliefs while acting in his official capacity on behalf of the County. Given the origins and purpose of the “Covington County Sheriffs Department” Facebook page, and the following that it has generated while operating as an official County page, this page should be discontinued. The County has absolute authority to regulate the use of its name on social media and remains liable for the statements made on this page if it fails to remedy this situation. Thank you for your attention to this matter. Please respond in writing to outline the steps taken by the County.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sam Grover', with a long horizontal line 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

³ See Ovetta Wiggins, *Maryland, ACLU reach settlement over governor deleting critical comments on his Facebook page*, Washington Post (Apr. 2, 2018), available at <https://wapo.st/2K1GdzZ>.



Covington County Sheriffs Department

February 3 · 🌐

Folks, 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. Keep tuned for important events and notifications. Our goal is a better community and police relationship through goodwill and service.

Sheriff Blake Turman