



Wisconsin

207 East Buffalo Street, Ste 325
Milwaukee, WI 53202
(414) 272-4032
aclu-wi.org

November 1, 2019

Via electronic and standard mail

Sheriff Severson
Waukesha County Sheriff's Department
County Jail Facility
515 W. Moreland Blvd.
Waukesha, WI. 53188

Re: Waukesha County Inmate Rules, Regulations, and Information Packet

Dear Sheriff Severson,

The American Civil Liberties Union of Wisconsin Foundation ("ACLU-WI") writes to express concern over language in the Waukesha County Jail ("the Jail") Inmate Rules, Regulations, and Information Packet ("the handbook") regarding access to religious texts for prisoners in disciplinary cells. In addition to the actual language from the handbook, we have received reports that the Jail has denied inmates religious texts other than a Bible. All inmates must be granted the same access to resources afforded to majority religious groups without any additional restrictions or requirements placed upon them. We write to ensure Waukesha County will take appropriate steps to clarify its handbook, and its application to inmates at the Jail, and accommodate its non-Christian inmates' desires to practice their sincerely held religious beliefs.

It is well settled that the government may not advance or promote religion, prefer one religion over another, or prefer religion over nonreligion.¹ Despite this established principle, Waukesha County has written into its policy that one of the few items allowed in a disciplinary cell is a "jail issued Bible."² Indeed, the full list of items allowed in a disciplinary cell refers only to a Bible, not religious texts more generally, and makes no reference to any other particular religious text or religious item that is allowed apart from the Bible. Such a policy violates the well-established constitutional principle that the government cannot prefer one religion over another.

The Seventh Circuit Court of Appeals, the appellate court with jurisdiction over Wisconsin, has held that prisoners are *entitled* to practice religion so long as it does not unduly burden the prison.³ Moreover, courts have been abundantly clear that, under the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), jails and prisons are broadly obligated to accommodate inmates' religious

¹ See generally, *Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962).

² *Waukesha County Inmate Rules, Regulations, and Information Packet*, p. 12.

³ See, e.g., *Richards v. White*, 957 F.2d 471, 474 (7th Cir. 1992) (emphasis added).



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beliefs.⁴ It would not unreasonably burden the Jail to provide appropriate religious to texts to inmates upon request rather than providing only a Bible to each inmate. Changing this policy would bring the Jail into compliance with its obligations under the Constitution and RLUIPA to accommodate all sincerely held religious beliefs existing within the walls of the facility.

We ask that you clarify the policy reflected in the Waukesha County Inmate Rules, Regulations, and Information Packet and provide assurances that the Jail does in fact allow other religious texts and items in disciplinary cells. To ensure there is no confusion moving forward, we also ask that you revise page 12 of the handbook to reflect the Jail's constitutional obligations and not reflect preference for Christianity over other religions. Please provide a response within 14 days about the steps the County will take to ensure this issue is resolved within a timely fashion.

Sincerely,

A handwritten signature in black ink, appearing to read "Asma Kadri Keeler".

Asma Kadri Keeler
Staff Attorney
ACLU of Wisconsin Foundation
akadri@aclu-wi.org

⁴ See *Jackson v. Nixon*, 747 F.3d 537, 543 (8th Cir. 2014); *Inouye v. Kemna*, 504 F.3d 705, 714 n.9 (9th Cir. 2007); *Warner v. Orange Cty. Dep't of Probation*, 115 F.3d 1068, 1077 (2nd Cir. 1997); *Kerr v. Ferrey*, 95 F.3d 472, 480 (7th Cir. 1996); *Arnold v. Tenn. Bd. of Paroles*, 956 S.W.2d 478, 484 (Tenn. 1997); *Griffin v. Coughlin*, 673 N.E.2d 98, 108 (N.Y. 1996).