



# AN EXAMINATION OF INMATE RELIGIOUS RIGHTS IN AN IOWA JAIL

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Iowa Office of Ombudsman  
Bernardo Granwehr, Ombudsman

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## **Complaint**

Jessica Burton<sup>1</sup>, an inmate at the Marshall County Jail (Jail), contacted the Office of Ombudsman (Ombudsman) on April 7, 2023. Jessica alleged that the Jail deprived her of the ability to freely practice her religion by denying her access to a deck of tarot cards that she ordered shortly after she arrived at the Jail. Initially, our office referred Jessica to the inmate handbook and grievance process, which is consistent with our normal practice, so that the Jail's staff would have an opportunity to review and correct any policy or practice errors before our office became involved.

Jessica called our office three weeks later, after completing the grievance process, and stated the Jail still denied her access to her tarot cards. She took particular offense when the Jail referred to her tarot cards as "playing cards."

Jessica explained that she identifies as Catholic, but also worships Santa Muerte, the saint of death in folk Catholicism. Part of her worship includes tarot readings, which she had been practicing for five years. Jessica stated she had a drawing of Santa Muerte in her cell; she would pray to her daily and provide water three times a day as an offering.

## **Decision to Investigate**

The Ombudsman is authorized under Iowa Code chapter 2C to investigate complaints against Iowa state and local governmental agencies, including county jails. When investigating a complaint, we attempt to determine if an agency's action is unlawful, contrary to policy, unreasonable, unfair, oppressive, or otherwise objectionable. We may make recommendations to the agency and other appropriate officials to correct a problem or to improve government policies, practices, or procedures.

Jessica's complaint about her ability to practice her religion raised a constitutional rights question, but also implicated federal and state law. Equally important, in our view, was whether Jail officials had acted reasonably in handling her request for religious items. We decided to investigate in part because our office regularly fields religious practice complaints from jail and prison inmates. We also saw an opportunity with this report to identify best practices for jails handling religious requests.

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<sup>1</sup> Jessica Burton was arrested on November 23, 2022, for a controlled substance violation, and booked into the Scott County Jail. Due to overcrowding in Scott County, Jessica was transferred to the Marshall County Jail in December 2022.

## Our Investigation

On May 4, 2023, we reached out to Jail Administrator Major Patrick White<sup>2</sup> for clarification on the Jail's policy regarding tarot cards and his explanation for denying Jessica's request. Major White's position was that he does not allow tarot cards in his jail. He provided this response to Jessica's grievance:

I have reviewed and investigated your grievance regarding your tarot cards. The only thing we allow to come in from the outside from Amazon or publishers are books and magazines. We do not allow other items to be shipped in like cards, games, or other items. If they are shipped and arrive here they are placed in your property to take with you when you leave. This grievance is unfounded.

Major White further justified his denial by explaining that Jessica had not noted a specific religion on the Jail's intake form when she arrived. As such, he was not willing to honor her request for the tarot cards.

We asked whether he had any safety and security concerns in allowing inmates access to tarot cards. Major White admitted he did not see any in this case, adding that playing cards are available for purchase from the Jail's commissary.

Jessica confirmed that she had been asked by the transferring jail, prior to arrival at Marshall County, about her religious preference during intake. She could not recall why she chose not to identify a religion at that time. Jessica did not remember being asked at Marshall County about her religious preference during intake. Major White told our office it was too late for her to identify a preferred religion at this point under their policy, stating:

I don't want to get into the habit of inmates being Muslim one day, Jewish the next and wanting to practice differnt (sic) religions and diets etc. as it suits them. That is the purpose of asking it at intake.

When we pointed out that federal courts have generally considered tarot cards to be a religious item, Major White explained that his research on Santa Muerte worship found no reference to tarot cards as part of the practice. He also said that if the Jail allows Jessica to have them, they will have to give them back to the other inmates who had them taken away.

While we were making an initial inquiry on the complaint, Jessica filed an appeal on her grievance denial. Major White denied the appeal, though his denial was not provided to Jessica

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<sup>2</sup> According to his LinkedIn profile, Major White has been the Marshall County Jail Administrator since February 2017. Prior to this he was with the Marshall County Sheriff's Office for almost 20 years and was a jail officer for over 4 years.

either verbally or in writing.<sup>3</sup> As a result, according to Jessica, she did not submit a further appeal to Marshall County Sheriff Joel Phillips.<sup>4</sup>

When we reached out again after Jessica’s appeal, Major White presented us with a third reason for denying the tarot cards, stating that Jessica failed to seek pre-approval before ordering the tarot cards from Amazon. “So if she would have asked about having these send (sic) in and pre-approved,” he wrote our office, “she would have been allowed to have them based on her religion.”

At our persistence, Major White agreed to let Jessica put in a new request for the tarot cards and explain what they would be used for. Despite this overture, he denied her follow-up request, citing an earlier rationale he had relied on – she had not listed her religion on the inmate form upon admission, and the tarot cards were not necessary for her to practice her religion.

Having encountered a dead end, we reached out to Sheriff Phillips directly. Sheriff Phillips echoed Major White’s position that Jessica failed to follow the proper processes when she ordered the cards, as well as having not listed her religious preference on her intake form. He did, however, seem receptive to finding a solution to the issue. He said that Jessica may need to order the tarot cards again, this time from an approved vendor. Further, he expressed interest in having Jessica educate him on the use of tarot cards in her religious practice and would have Major White speak to Jessica about the complaint again.

The final conversation on this issue between Jessica and Major White took place at the beginning of June, almost a month after our office had first made an inquiry on the matter. Jessica informed Major White that she had created her own tarot cards since she had been denied access for so long. Major White let her keep the homemade tarot cards and told her she could re-request the purchased cards again. Jessica posted bond shortly after the conversation and left the Marshall County Jail without re-requesting the cards.

## **Relevant Law and Court Cases**

Inmate religious rights are governed by constitutional and statutory principles. State and federal courts have also set the requirements and expectations on protected religious activity over the years. The Ombudsman is not an arbiter of legal rights, but we do consider the legal landscape when determining whether to substantiate a complaint. In this case, we researched state and federal law and case law when we conducted our analysis.

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<sup>3</sup> Jessica said she was told that, as a practice, no response within five days means the appeal is denied.

<sup>4</sup> Sheriff Phillips has served several law enforcement roles with Marshall County since 2002. He was appointed Sheriff in April 2021.

## Free Exercise Clause and Federal Law

Inmates have a First Amendment right to practice their religion without government impediment.<sup>5</sup> This protection is not absolute; limitations may be placed on the inmates' constitutional rights when certain safety and security concerns are present.<sup>6</sup>

Inmate religious rights are further protected by a federal law, referred to as the Religious Land Use and Institutionalized Persons Act (RLUIPA).<sup>7</sup> RLUIPA, which offers even stronger protections than the First Amendment, states:

No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person:

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.<sup>8</sup>

In analyzing RLUIPA's provisions and the greater protections it provides, the U.S. Supreme Court has stated that prisons are not required to create or tolerate unacceptable security risks when providing a religious accommodation.<sup>9</sup>

Similarly, the Eighth Circuit Court of Appeals, whose jurisdiction includes Iowa, has stated that "Congress did not want to overly burden prison operations, but rather intended to provide as much protection as possible to prisoners' religious rights without undermining the security, discipline, and order of those institutions."<sup>10</sup>

Iowa law is consistent with federal law on an inmate's religious practice. It provides that inmates must be afforded a reasonable opportunity to pursue their religious faith: "Any infringement upon the opportunity to pursue one's faith must further some compelling interest and must be the least restrictive means of furthering that interest."<sup>11</sup>

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<sup>5</sup> U.S. Const. amend. I. *O'Lone v. Shabazz*, 482 U.S. 342, 348 (1987); See also *Fegans v. Norris*, 537 F.3d 897, 902 (8<sup>th</sup> Cir. 2008).

<sup>6</sup> *Murphy v. Missouri Dept. of Corrections*, 372 F.3d 979, 982 (8<sup>th</sup> Cir. 2004).

<sup>7</sup> Congress passed RLUIPA in 2000 to provide additional religious protection for inmates, finding that the First Amendment, as interpreted by the courts, did not offer adequate protection.

<sup>8</sup> 42 U.S.C.A. § 2000cc (West).

<sup>9</sup> *Cutter v. Wilkinson*, 544 U.S. 709, 725-26(2005).

<sup>10</sup> *Murphy*, 372 F.3d at 987. RLUIPA replaced the Religious Freedom Restoration Act (RFRA), which was held to be unconstitutional in *City of Boerne v. Flores*, 521 U.S. 507 (1997).<sup>10</sup> However, cases that were decided under the RFRA can still be instructive as to how RLUIPA should be interpreted.

<sup>11</sup> Iowa Admin. r. 201—50.18(2).

## What is “Religion” and “Religious Exercise”?

The Eighth Circuit has utilized three useful indicia in identifying what constitutes “religion”:

- (1) whether the belief system addresses “fundamental and ultimate questions,”
- (2) whether it is “comprehensive,” and
- (3) its “structural characteristics.”<sup>12</sup>

Other circuits have recognized characteristics such as ultimate ideas, metaphysical beliefs, moral and ethical systems, comprehensiveness of beliefs, and ten “accoutrements of religion.”<sup>13</sup>

Courts have otherwise been reluctant to define religion or question whether the religious practices of an inmate conform with the norm of a claimed religion. According to one federal court, “[I]nquiry into what is or is not central to a particular religion has no place in a RLUIPA analysis.”<sup>14</sup>

Even outside the corrections context, the U.S. Supreme Court has been reticent to ascribe rules on what constitutes religion: “[W]e reject the notion that to claim the protection of the Free Exercise Clause, one must be responding to the commands of a particular organization.”<sup>15</sup>

[T]he guarantee of free exercise is not limited to beliefs which are shared by all members of a religious sect. Particularly in this sensitive area, it is not within the judicial function and judicial competence to inquire whether [plaintiff or another person] more correctly perceived the commands of their common faith. Courts are not arbiters of scriptural interpretation.<sup>16</sup>

RLUIPA specifically addresses protection of “religious exercise.” This, too, is defined broadly to include “any exercise of religion, whether or not compelled by, or central to, a system of religious belief.” To establish a legal claim under the federal law, an inmate must show that a

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<sup>12</sup> *Love v. Reed*, 216 F.3d 682, 687 (8<sup>th</sup> Cir. 2000).

<sup>13</sup> *United States v. Meyers*, 95 F.3d 1475, 1483-84 (10<sup>th</sup> Cir. 1996). The court listed the ten accoutrements that may indicate a particular set of beliefs as being a religion, along with a description of each, as:

- (1) Founder, prophet, or teacher,
- (2) Important writings,
- (3) Gathering places,
- (4) Keepers of knowledge,
- (5) Ceremonies or rituals,
- (6) Structure or organization,
- (7) Holidays,
- (8) Diet or fasting,
- (9) Appearance and clothing,
- (10) Propagation

In adopting these factors listed by the district court, the appellate court also quoted the lower courts warning that “no one of these factors is dispositive, and that the factors should be seen as criteria that, if minimally satisfied, counsel the inclusion of beliefs within the term ‘religion.’”

<sup>14</sup> *Native Am. Counsel of Tribes v. Weber*, 750 F.3d 742, 750 (8<sup>th</sup> Cir. 2014).

<sup>15</sup> *Frazee v. Illinois Dep’t of Employment Sec.*, 489 U.S. 829, 834 (1989).

<sup>16</sup> *Thomas v. Review Bd. Of Ind. Employment Sec. Div.*, 450 U.S. 707, 715-716 (1981).



substantial burden has been imposed on their ability to exercise their religion.<sup>17</sup> “Substantial burden” has been interpreted to mean government policies or actions that:

- significantly inhibit or constrain conduct or expression that manifests some central tenet of a person’s individual religious beliefs;
- meaningfully curtail a person’s ability to express adherence to his or her faith; or
- deny a person reasonable opportunities to engage in those activities that are fundamental to a person’s religion.<sup>18</sup>

Courts will no longer consider whether an inmate’s specific religious practices are a central tenet or fundamental to his or her reported religion.<sup>19</sup> Instead, they focus on the sincerity of the inmate’s religious belief, and then look at whether the correctional facility has placed a substantial burden on the inmate’s ability to practice their religion.

### “Sincerely Held” Religious Belief

The Eighth Circuit determined an inmate’s Hebrew religion was a “sincerely held belief.”<sup>20</sup> This was in spite of the fact that the inmate belonged to no organized religious group and his beliefs were based on his own self-teaching of the Old Testament. Other courts have also called into question the use of membership in an organized religion and genetic lineage as factors in determining whether an inmate has a sincerely held religious belief.<sup>21</sup>

An inmate’s disciplinary history also serves as a weak indicator of his or her religious “sincerity.” A federal district court in Iowa determined that an inmate’s disciplinary history that was inconsistent with the religion’s values did not serve as evidence that the inmate’s beliefs were not sincerely held.<sup>22</sup>

Though [the inmate’s] past discipline indicates he has acted ‘unrighteous’ at times, his misconduct does not prove his asserted beliefs are the product of deception and fraud. Even the most devout are sometimes sinners.<sup>23</sup>

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<sup>17</sup> *Singson v. Norris*, 553 F.3d 660, 662 (8th Cir. 2009).

<sup>18</sup> *Gladson v. Iowa Dept. of Corrections*, 551 F.3d 825, 832 (8th Cir. 2009). See also *Murphy v. Missouri Dept. of Corrections*, 372 F.3d 979, 982 (8th Cir. 2004).

<sup>19</sup> *Id.* at 832-833.

<sup>20</sup> *Love v. Reed*, 216 F.3d 682, 687 (8th Cir. 2000) (Religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection.)

<sup>21</sup> *Mosier v. Maynard*, 937 F.2d 1521 (10th Cir. 1991) (“membership in a religious organization is [not] a prerequisite for religious convictions to be judged sincerely”); *Morrison v. Garraghty*, 239 F.3d 648 (4th Cir. 2001) (“we cannot endorse the proposition that an inmate’s sincerity of religious beliefs in Native American spirituality can be defined solely by his race and heritage.”).

<sup>22</sup> *Wright v. Fayram*, No. C11-0001, at \*12 (N.D. Iowa June 18, 2012).

<sup>23</sup> *Id.*

In finding the inmate's religious beliefs to be sincerely held, the court cited the inmate's years of subscribing to the religion, fluency regarding its teachings, and observance of honorary fasting days.<sup>24</sup>

The question of sincerity is centered on the credibility of the inmate, in which the court determines whether the belief is "so bizarre, so clearly nonreligious in motivation that they are not entitled to First Amendment protection."<sup>25</sup> Care should also be taken when questioning an inmate's religious tenets, as courts "should not undertake to dissect religious beliefs because the believer admits that he is 'struggling' with his position or because his beliefs are not articulated with the clarity and precision that a more sophisticated person might employ."<sup>26</sup>

### **Caselaw on Tarot Cards**

The Eighth Circuit addressed a question of access to tarot cards in a claim brought by an inmate who identified as Wiccan.<sup>27</sup> The prison had denied the inmate's request to keep the tarot cards in his cell to use for religious purposes. Instead, the prison only allowed the inmate to periodically check out the cards. The prison had denied the inmate's request on multiple grounds, including:

- (1) gambling, as tarot cards can be manipulated for use as playing cards;
- (2) trafficking, since card readings could be conducted in exchange for goods or services;
- (3) psychological control, as some prisoners may believe tarot card-holders have special powers; and
- (4) gang symbols on tarot cards, which could be used to promote or defame gangs, leading to violence."<sup>28</sup>

The inmate's religious beliefs were undisputed. Instead, the fighting issue in the case was the manner in which the inmate could access and retain the cards in his possession.<sup>29</sup> The prison kept a set of tarot cards for inmates to check out and allowed the inmate to keep other Wiccan items in his cell.

Citing the legitimate security concerns raised by the prison, the Court determined that in-cell use of the tarot cards "would strain prison security resources."

A federal case out of Arkansas raised the same issue as that heard by the Eighth Circuit, in which the inmate was allowed only periodic access to tarot cards.<sup>30</sup> The inmate argued that he needed constant access to the tarot cards as part of his religious practice. The federal district court determined that the prohibition on in-cell use of tarot cards could place a substantial burden on

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<sup>24</sup> *Id.*

<sup>25</sup> *Kay v. Bemis*, 500 F.3d 1214, 1219 (10<sup>th</sup> Cir. 2007).

<sup>26</sup> *Love*, 216 F.2d at 688, quoting *Thomas v. Review Bd., Ind. Empl. Sec. Div.*, 450 U.S. 707, 715 (1981).

<sup>27</sup> *Singson v. Norris*, 553 F.3d 660, 661 (8<sup>th</sup> Cir. 2009).

<sup>28</sup> *Id.* at 661-662.

<sup>29</sup> The inmate raised his claim under RLIUPA, not as a First Amendment argument.

<sup>30</sup> *Stompingbear v. Kelly*, 2020 WL 6395678 (E.D. Ark 2020).

the inmate's ability to exercise his religion. However, the court found the prison had a compelling government interest in not allowing in-cell use of the tarot cards, citing the Eighth Circuit's prior holding.

Still the district court pointed to an undeveloped record in the case that could change the holding. The inmate alleged that he had been denied access to the tarot cards by the prison chaplain on all but one occasion, and a second set of hand-drawn tarot cards that he created would be considered donated under prison policy for any inmate to use or destroy if he were to hand them over. The court left open the possibility that the inmate could refile his claim if he could provide evidence supporting his allegations.<sup>31</sup>

In another case, a Utah inmate brought First Amendment and RLIUPA claims against prison officials who denied his request to possess tarot cards and disciplined him when he secretly brought the cards into the facility.<sup>32</sup> The Tenth Circuit Court of Appeals focused on the sincerity of the inmate's religious beliefs rather than whether the use of tarot cards was central to the inmate's religious practice, stating that it was not the court's business to say what practice or activity constitutes religion under the First Amendment.

The court did not get to the issue of whether a legitimate penological interest justified any restriction to the tarot cards, since it determined the lower court had erroneously determined that the inmate had failed to plead that his religious beliefs were sincerely held and how the tarot cards were necessary for him to practice his religion.<sup>33</sup>

## Analysis

### Sincerity of Religious Beliefs

We do not believe there is much room to debate whether Jessica was attempting to practice a religion or engage in a religious exercise. Jessica identifies as Catholic and prays to Santa Muerte. A basic online search describes Santa Muerte as “a female deity and folk saint in folk Catholicism and Mexican Neopaganism.”<sup>34</sup>

A personification of death, she is associated with healing, protection, and safe delivery to the afterlife by her devotees. Despite condemnation by leaders of the Catholic Church, and more recently evangelical pastors, her cult has become increasingly prominent since the turn of the 21<sup>st</sup> century.<sup>35</sup>

The main dispute in this case rested on whether Jessica's claimed religion was sincerely held. Jail Administrator White's decision on that question relied heavily on the Scott and Marshall

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<sup>31</sup> *Id.* at \*5.

<sup>32</sup> *Kay v. Bemis*, 500 F.3d 1214 (10<sup>th</sup> Cir. 2007).

<sup>33</sup> *Id.* at 1221.

<sup>34</sup> [https://en.wikipedia.org/wiki/Santa\\_Muerte](https://en.wikipedia.org/wiki/Santa_Muerte) (Last accessed 3/20/2024).

<sup>35</sup> *Id.*

County jail admission forms, which did not identify Jessica's religion. If Jessica practiced a religion, he argued, it should have been listed on the forms.

The Jail does not have a written policy by which an inmate is "locked in" to a religion they identify or do not identify on the intake form. As mentioned above, Major White explained to us that he did not want inmates getting into the habit of changing religions from one day to the next.

While we can understand the extra burden that would accompany an inmate's frequent change of religions, we do not believe that was the case here. Major White's approach does not consider the sincerity of the inmate's religious belief, as required by the courts.

### **Role of Tarot Cards**

When we first inquired about an inmate's access to tarot cards, Major White simply declared that "we do not allow these in . . ." without explaining the context or possible exceptions for an inmate's religious practice. As mentioned above, courts have consistently recognized the role of tarot cards in religious practice. A blanket policy of not allowing in a religious item, without an articulated rationale based on legitimate safety and security considerations, would likely not pass constitutional muster.

Later, Major White explained that the tarot cards Jessica ordered were not provided to her because she had not obtained pre-approval. "So if she would have asked about having these send (sp.) in and pre-approved she would have been allowed to have them based on her religion."

Even later, after apparently looking up the Santa Muerte religion on his own, Major White declared:

These cards are not needed to practice the religion she is now following. She is free to practice her religion without them. At this time I am denying her request and is subject to further review.

It is worth noting that courts have been reticent to define religion:

Few tasks that confront a court require more circumspection than that of determining whether a particular set of ideas constitute a religion within the meaning of the First Amendment. Judges are ill-equipped to examine the breadth and content of an avowed religion; we must avoid any predisposition toward conventional religions so that unfamiliar faiths are not branded mere secular beliefs.<sup>36</sup>

We think jail staff – similar to judges – are ill-equipped to examine the particulars of a claimed religion.

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<sup>36</sup> *Africa v. Com. of Pa.*, 662 F.2d 1025, 1031 (3d Cir. 1981).

## Legitimate Penological Interest

Throughout our correspondence and conversations with Major White, safety and security concerns – the primary factors underlying legitimate penological interests<sup>37</sup> – were not cited as a basis for denying Jessica the tarot cards. In fact, Sheriff Phillips mentioned to us that since there were no safety or security concerns, Jessica should be allowed to have tarot cards.<sup>38</sup>

## Conclusions

We recognize that not every belief necessarily constitutes a religion. We can also imagine the adverse impact it would have on a jail if its staff were prohibited from questioning any claim of religious practice. Courts have struggled to clearly define “religion” and “religious exercise,” and we do not purport to have the answer for every scenario either.

We do not see Jessica’s request for tarot cards in the context of her claimed religion to be unreasonable or far-fetched. The tarot cards she requested were a Santa Muerte-specific tarot deck, which is carried and sold by multiple vendors online.

Major White, in our opinion, should have focused less on the specific practice of Jessica’s religion and more on whether her identified religious beliefs were sincerely held. It does not appear that Major White took reasonable steps, except to look at the admission form, to determine if Jessica’s religious preference was sincerely held.

Major White met with Jessica to learn more about her identified religion only after our office had pressed the issue for a month, and Sheriff Phillips became involved. Based on their conversation, Major White allowed Jessica to keep her homemade tarot cards and told her she could re-request access to the tarot cards she ordered. This decision was ultimately too late to help Jessica, as she was released from the Jail before she could request the cards.

The topic of religious exercise is not unique to the Marshall County Jail. The Ombudsman believes this case provides a good example of key pitfalls jails can face when navigating inmate religious rights.

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<sup>37</sup> *Fegans*, 537 F.3d at 906.

<sup>38</sup> Phone conversation between assistant ombudsman Amanda Jaminet and Sheriff Phillips, May 23, 2023.

## **Recommendations**

The Ombudsman makes the following recommendations:

1. Marshall County Jail should not have an arbitrary restriction that locks in an inmate's religion listed on an intake form, without any possibility for later reconsideration.
2. Marshall County Jail should describe in written policy how inmates can request or order religious materials.
3. Any practice or policy that considers an inmate's religious accommodation should focus on the sincerity of the religious belief, balanced with the legitimate, specific safety and security needs of the facility. Decisions regarding inmate requests should address both of those factors.
4. Jail staff should use caution when determining what constitutes a religion or religious practice.

## Response from Marshall County Sheriff's Office

# OFFICE OF THE SHERIFF MARSHALL COUNTY

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A "CALEA" Accredited Agency

April 20, 2024

Ombudsman Bernardo Granwehr  
OLA Babcock Miller Building  
1112 East Grand Avenue  
Des Moines, Iowa 50319

Subject: Religious Right Public Report

Dear Mr. Granwehr,

I received your letter and investigative report on April 1<sup>st</sup>, 2024, that was distributed through the U.S. Postal Service. I have also reviewed the draft version that was provided. I want to thank you and your contributors for the extensive and thorough work that was dedicated to an analysis of religious rights in Iowa's County Jails.

On April 2<sup>nd</sup>, 2024, Iowa Governor Kim Reynolds signed Senate File 2095 into law an Act relating to the exercise of religion, and including effective date of applicability, which was immediately. With this act, in my opinion provided Iowa County Jails and Iowa State Prisons additional guidance to protect individual rights and privileges for the free exercise of religion. It is the duty of the Marshall County Sheriff's Office to protect the Constitutional Rights of all individuals, which includes an inmate's religious rights.

We will continue to evaluate our jail policies and procedures to ensure that an inmate's constitutional rights are maintained while providing a safe and secure facility.

Sincerely,



Joel R Phillips  
Sheriff, Marshall County Iowa

cc: Major Patrick White

## **Ombudsman Comment**

I want to thank Sheriff Phillips for his commitment to ensure inmate constitutional rights are maintained at the Marshall County Jail. I comment only on Senate File 2095 as it applies to inmate rights.

This newly enacted law allows for a state-created cause of action for a violation of a person's religious rights. Based on our interpretation of the law, Senate File 2095 does not provide any greater (or less) protection of an inmate's rights as compared to the federal Religious Land Use and Institutionalized Persons Act discussed in our report. Both laws require the government to have a compelling interest before it may impose a substantial burden on a person's religious exercise, and the burden must be the least restrictive means of furthering that governmental interest.

I appreciate Sheriff Phillips raising Senate File 2095, codified in Iowa Code chapter 675, as a point of discussion. It serves as an additional piece of religious protection for inmates of which jail officials statewide should be aware.