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January 22, 2018

Secretary Jon Litscher
Wisconsin Department of Corrections
P.O. Box 7925
Madison, WI 53707-7925

Re: Adult Education Programs

Dear Secretary Litscher:

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the Foundation serves Legislative Prayer Caucuses in over 30 states, including Wisconsin, which have nearly 1000 state senators and state representatives as members. These leaders are working together to preserve the integrity of our Founding Principles and to protect First Amendment rights for all.

We have reviewed a letter to you on December 5, 2017, from the Freedom from Religion Foundation ("FFRF"). In that letter, FFRF asserts that, by offering to inmates a course with religious content from Trinity International University, your department has violated the Establishment Clause of the First Amendment of the United States Constitution. Based on our understanding of the educational programming your department offers, FFRF is sadly mistaken.

We can start with a common baseline. If, as FFRF asserts, your department had converted your institutions into seminaries and required every inmate to undergo religious instruction of only a Christian nature, or had conditioned benefits such as parole on participation in such instruction, the Establishment Clause would be implicated. But those are not the facts as we understand them. Your websites indicate that your department, commendably, has made multiple courses of instruction available to inmates on a voluntary basis, listing no less than 26 different educational and vocational opportunities at <https://doc.wi.gov/Pages/AboutDOC/AdultInstitutions/EducationServices.aspx>.

We are also confident that your department does not force any inmate to attend Trinity's offerings; it simply provides them as an opportunity, among many

others, for instruction and improvement. In that context, it is not irrelevant that the rate of recidivism among inmates who participate in religious programming is lower than that of inmates who do not. This provides a "secular" barometer for the desirability of offering such programming.

Indeed, if your department were to exclude categorically from your broad panoply of educational program offerings all religious instruction by interested institutions such as Trinity, that would itself be an unconstitutional restriction. Inmates are, of course, unable to pursue educational opportunities not permitted by the State. It is imperative, then, that the State not discriminate against religious institutions and instruction just because they are religious.

The Constitution does not require a government to be hostile to religion. As the U.S. Supreme Court stated well in *Zorach v. Clauson*, 343 U.S. 306, 314 (1952): "[W]e find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence." The religious community is just as much a part of your community as those who have no religious beliefs, and the religious members of a community cannot be treated as "outsiders" any more than their secular neighbors.

In closing, our nation has enjoyed a cultural heritage of freedom that rests upon Judeo-Christian ethics. Americans have generally appreciated the contributions of religious organizations toward the strengthening of our society. Our government has had a history of benevolent accommodation of religion. It was not until the 1960s that the U.S. Supreme Court gave the Establishment Clause new interpretations that portended a stricter separation from religion would be required in the public sphere. The Supreme Court has backed away from those interpretations in the decades since, but organizations like the Freedom from Religion Foundation pretend that those earlier interpretations are still binding and should be extended to ever greater degrees, causing confusion in our public institutions to this day.

We hope that you will not yield to threats to rob your inmates from the educational programs offered by Trinity International. If we can be of any service to you on this issue, feel free to contact us. We have First Amendment lawyers on staff who will work with you, without charge, if you need their services. To protect our freedom, we must exercise that freedom, and it is encouraging to see your leadership in our First Amendment freedoms.

Sincerely,



Lea Carawan
Executive Director
Congressional Prayer Caucus Foundation