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ACLU-IA Monitoring New Rule Regarding Creche Display on Courthouse Grounds in Tipton

by R. Ben Stone, ACLU-IA Executive Director
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DES MOINES - In its first public statement on the matter, the American Civil Liberties Union of Iowa announced today that it has yet to decide whether putting a disclaimer next to a courthouse nativity scene in Tipton satisfies the Constitution.

The group is reserving judgement on the constitutionality of the display until after it has had a chance to assess the implementation of a new ordinance passed by Cedar County officials last month. The ordinance is intended to create a public forum near the courthouse where groups will be permitted to erect displays.

"If indeed a genuine public forum has been created, then that may take care of it," said Ben Stone, executive director of the ACLU-IA.

"However, since this new public forum was only created last week, we will have to wait and see how it is operated by the county."

The ACLU-IA sent a letter to Cedar County Attorney Lee Beine on November 4 stating that the ACLU-IA had received several complaints from county residents regarding the nativity scene and asking that the display not be erected this year.

On November 24th, the ACLU-IA received a fax from Sterling Benz, assistant Cedar county attorney. The fax included a policy recently adopted by the Cedar County supervisors. The policy states that the area surrounding the courthouse is to be considered a designated public forum.

After the Thanksgiving weekend, the ACLU-IA on Monday, December 1, wrote to Mr. Beine thanking him for faxing it a copy of the new ordinance, and stating "[d]epending on implementation, the new policy may or may not resolve the Establishment Clause violation that existed in prior years." The letter went on to state that the ACLU-IA would "continue to monitor use of this forum."

The ACLU-IA did not know about the posting of the disclaimer near the creche until a reporter called its office on Tuesday, December 2, with questions regarding it. Despite earlier press reports to the contrary, the ACLU-IA has not said that it will continue to oppose the nativity display despite the existence of the disclaimer.

The ACLU-IA does say it is possible that local ACLU-IA members may seek to place a Bill of Rights display on the courthouse lawn in the future.