

AIR WAR COLLEGE

AIR UNIVERSITY

RELIGIOUS EXPRESSION OR RELIGIOUS COERCION:
COMMANDERS CAUGHT IN THE CROSS-FIRE

by

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BIOGRAPHY

Chaplain, Lieutenant Colonel Jimmy M. Browning is currently attending Air War College in residence at Maxwell Air Force Base, Alabama and was recently selected to the rank of Colonel. Chaplain Browning received his commission on 6 November 1979 and served as a Chaplain Candidate and an Individual Mobilization Augmentee Reserve Chaplain before entering Active Duty on 26 August 1989. Since being originally commissioned, he served at sixteen different locations culminating as the Wing Chaplain at Beale Air Force Base, California and Aviano Air Base, Italy. These assignments also included deployments to England, Oman and Iraq. He also served on the Resource Division of the Chaplain Service Institute.

Chaplain Browning earned a Bachelor of Arts, Psychology, University of Texas, Arlington, TX; a Master of Divinity and Doctorate of Ministry from Southwestern Baptist Theological Seminary, Fort Worth, TX; and a Master of Science in Mass Communication, Boston University, Boston MA.

He earned thirteen individual and team honors or awards at the base, major command (MAJCOM), and Air Force level. His most recent individual and team awards are the 2007 Military Chaplains Association Distinguished Service Award and the 2008 Best Chapel Team in the Air Force (AF's "Terence P. Finnegan" Award, Medium Size Category) respectively.

INTRODUCTION

The U.S. has a long history of supporting the religious needs of those serving in the military. Even before the U.S. Constitution and Bill of Rights existed, military leaders ensured those under their command had opportunity to exercise their religious convictions. George Washington successfully persuaded the Continental Congress on 29 July 1775 to appoint ministers as chaplains with a rank of captain and a salary of \$20 per month. With this action, the American government officially established the military chaplaincy to support the free exercise of religion for those who served in the military.¹ After the U.S. Constitution's passage, Congress addressed the states' concerns by introducing ten amendments.² Being ratified on 15 December 1791, these ten articles became known as the Bill of Rights. The First Amendment simply states,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.³

Thus, the First Congress prioritized these freedoms of religion, speech, press, peaceful assembly, and to petition for redress of grievances as foundational and primary. Noteworthy, free exercise of religion not only guaranteed individual religious liberty but also protected the individual from abuses of a state established religion as experienced in 17th century Europe.⁴ In an ingenious way, these two religious guarantees complement each other. Fortunately, these religious freedoms also apply to those serving in the military.⁵

Congressional law reaffirmed the value of free exercise of religion for the military beyond the Continental Army. Congress created and the Courts preserved military chaplaincies to support commanders in their duties of protecting Constitutional free exercise of religion. Department of Defense (DOD) Directive 1304.19 section 4.1 states commanders are responsible to provide for free exercise of religion. Partnering with religious denominational endorsers, DOD

procures, trains, equips, and supports chaplains to ensure the First Amendment's protection of free exercise of religion.⁶

Currently, commanders are seeking to balance the First Amendment's *Establishment* Clause (Congress shall make no law respecting an *establishment of religion*) and the *Free Exercise* Clause (or prohibiting the *free exercise* thereof) as DOD is battling frequent separation of church and state litigations. Commanders and chaplains are being accused of religious coercion; furthermore, an unabated tension is growing from a struggle between religious expression and religious coercion. This strain is affecting religious expression within the DOD as commanders are increasingly being ambushed in the media and litigation cross-fire.

Consequently, the United States Air Force (USAF) is under intense scrutiny to whether religious expression by commanders and chaplains is becoming more coercive or hampered.⁷ Within the past decade, groups are increasingly using media and litigation to challenge perceived religious coercion within the military. These groups take a view that Airmen should not be exposed to any unsolicited religious expressions thereby causing others to be deeply concerned about a loss of religious expression. What are the litigants' issues and how legitimate are their concerns? After seeking to understand the background and to analyze these issues, this paper will recommend a USAF Chaplain Corps' (HC) strategic effort in support of First Amendment rights and will suggest guidelines for commanders.

BACKGROUND

To understand this growing tension, one must acknowledge the Constitutional complexity, the command responsibility, a watchdog group's concerns, and the chilling effect within the military.

Constitutional Complexity

Depending on one's viewpoint of the First Amendment's Establishment and Free Exercise clauses, religious expression within the military is being either rightfully challenged or viciously attacked. As America becomes more culturally sensitive and secular, world-view battles are becoming more energized and polarized.⁸ Certainly, the complexity of the First Amendment gives opportunity for individuals to proof-text their arguments.⁹

As groups become more energized to wage media and litigation battles against perceived military religious coercion, these groups are taking aim at commanders and chaplains. This challenge is not new; it is not the first time someone challenged the military chaplaincy.¹⁰ In 1979, Joel Katcoff and Allen Weider, two Harvard students, sued the Secretary of the Army believing the chaplaincy program violated the Establishment Clause on the separation of church and state principle. In 1985, the Second Circuit Court of Appeals affirmed the military chaplaincy did not violate the Establishment Clause. Even though funded with tax dollars, the Court found the chaplaincy was constitutional because it preserved a soldier's right to exercise freely his religion.¹¹ Unfortunately, this constitutional complexity exposes commanders to become a target as they embrace their full command responsibilities.

Command Responsibility

From a regulatory perspective, commanders are responsible, among many other things, to ensure military members are free to exercise their faith. As previously mentioned, DOD Directive 1304.19 states it is the commanders' responsibility to provide for the "free exercise of religion in the context of military service as guaranteed by the Constitution."¹² Additionally, Air Force Instruction (AFI) 36-2618 addresses the Airmen's need to maintain the highest level of personal readiness in order to meet mission requirements. Section 3.1.4 stresses Airmen are to be

technically, physically, mentally, spiritually, and deployment ready. In this holistic approach, the USAF acknowledges spiritual readiness is a component of Airmen being able to accomplish the USAF's demanding mission. This AFI defines spiritual readiness as "the development of those personal qualities needed to help a person through times of stress, hardship, and tragedy. Spiritual readiness may or may not include religious activities."¹³ Thus, the USAF values spiritual readiness and supports First Amendment guarantees of free exercise for Airmen.

The commanders' challenge, therefore, is how to support spiritual readiness while avoiding the perception or reality of establishing a state supported religion. Equally challenging is how commanders can express their own faith tenets, as protected by the First Amendment of free exercise of religion and speech, to their Airmen without creating an environment of religious coercion. In support of the commanders' responsibility to protect free exercise of religion, chaplains provide "spiritual care and the opportunity for USAF members, their families, and other authorized personnel to exercise their Constitutional right to the free exercise of religion."¹⁴

Consequently, commanders are increasingly cautious of expressing anything related to the spiritual or to their own faith. Even chaplains are being challenged with accusations of proselytizing.¹⁵ Why? Groups, like the Military Religion Freedom Foundation, are bringing litigation and media attention to what they define as constitutional abuses against Airmen.

Military Religion Freedom Foundation's Concerns

Military Religion Freedom Foundation (MRFF) is one group that describes itself as a watchdog against religious coercion. Others, like Americans United Against Separation of Church and State and American Civil Liberties Union also litigate against perceived religious abuses.¹⁶ These watchdog groups are challenging military members, especially commanders, for

using their position to promote religion and to coerce Airmen to a particular religion. These groups are especially leery of evangelical Christians.¹⁷ In contrast, evangelical Christians feel equally strong they are within their guaranteed First Amendment rights when they exercise their faith tenets of following Christ's commandment of making disciples.¹⁸ The result is a collision between religious coercion and religious expression.

This paper will use MRFF as a representative watchdog group as they are more exclusively focused on the military than the others. The MRFF homepage states, it "is dedicated to ensuring that all members of the U.S. Armed Forces fully receive the Constitutional guarantees of religious freedom to which they and all Americans are entitled by virtue of the establishment and free exercise clauses of the First Amendment and the "no religious test" of Article VI."¹⁹ MRFF states its role "is to ensure that our government does indeed adhere to the spirit as well as the letter of the Constitution; that it leads by example. The next chapter in the never-ending struggle to expand religious freedom in the military is being written, and MRFF is playing a critical part in the effort. A watchdog's role requires constant vigilance."²⁰

While MRFF appears to support religious freedom from all perspectives, MRFF often targets evangelical Christians. Why? MRFF's founder, Michael "Mikey" Weinstein, stated his initial reasons for creating MRFF were personal. Both he and his sons "were subjected to taunts and derision because of their Jewish faith and had faced proselytizing both from their peers and superiors."²¹ So, he started MRFF to protect the constitutional rights of "non-evangelical Christians, those of minority faiths and those who chose not to worship at all, from experiencing illegal proselytizing and evangelizing."²² Apparently, Mikey Weinstein received two beatings by upper-classmen in retaliation for his reporting anti-semitic remarks to his USAF Academy's chain of command. It is little surprise, then, Mikey's anger boiled in 2004 when his son Curtis

stated he planned “to beat the shit out of the next guy that calls me a ‘fucking Jew.’”²³ According to Jeff Sharlet’s article, Weinstein targeted “weaponized Christianity”²⁴ as his enemy. Using MRFF as his weapon, Weinstein stated, “We will lay down withering fire and open sucking chest wounds. This country is facing a pervasive and pernicious pattern and practice of unconstitutional rape of the religious rights of our armed forces members.”²⁵

Are Airmen really being coerced by military leadership and chaplains resulting in Airmen’s insidious harm or ruin? Are they being unconstitutionally raped of religious rights? Are groups like MRFF legitimately finding infractions of religious coercion and bringing it to the military’s and public’s attention through media news releases and litigation? From MRFF’s perspective, “the constitutional violations occurring in our military are so numerous and widespread that we can’t possibly find all of them ourselves. MRFF counts on its supporters and volunteers -- the indispensable ‘eyes and ears’ who alert us.”²⁶ Is MRFF’s email solicitation for any constitutional violations focusing a laser beam of discovery or is it creating media frenzy and a growing hostile environment toward religion within the USAF? As MRFF confronts the DOD for its “pervasive and pernicious pattern and practice of unconstitutional rape,”²⁷ what effect does this have?

Chilling Effect

The National Association of Evangelicals believes MRFF’s efforts are having a chilling effect on free exercise of religion and constitutionally-protected religious speech.²⁸ Additionally, this author believes the religious climate has significantly changed in the USAF in the past two decades. Following a Chief of Chaplain’s briefing to a Wing Commander’s class at Maxwell AFB, AL in July 2009, this author noted all questions from commanders related to their concerns about expressing anything spiritual as a military leader. Additionally, this author validated,

through personal interviews, many commanders' growing hesitancy to express their faith or anything spiritual within a military setting.²⁹

Are commanders and chaplains using their positions of power to coerce or unduly influence Airmen to accept something that would normally be against their will? Are Airmen being deprived of their freedom of choice? Merriam-Webster's Law Dictionary defines coercion, as "the use of express or implied threats of violence or reprisal or other intimidating behavior that puts a person in immediate fear of the consequences in order to compel that person to act against his or her will."³⁰ Coercion thus carries a connotation of forcefully persuading another to do something against his or her will. Undue influence is "improper influence that deprives a person of freedom of choice or substitutes another's choice or desire for the person's own."³¹ These issues demand a careful analysis.

ANALYSIS

To dissect the issues, a dialectical approach allows for a thorough analysis of both sides. Additionally, one must evaluate the second and third order of effects, that is, the lingering impact of these issues.

Dialectical Analysis of the Issues

In his classic book *On War*, Clausewitz used a method described as dialectical reasoning to analyze war. By using Clausewitz's approach of thesis, antithesis, and synthesis, the next task is to evaluate religious expression within the USAF. With so much negative verbiage and hostile vilification, the critical issues are being lost in media and litigation noise. With this dialectical approach, what are MRFF's major concerns? MRFF produced numerous press releases and filed several litigation briefs. Using a MRFF's press release of its 2010 Nobel Peace Prize nomination, one can identify their primary focal issues: 1) to support the wall between church and state in the

U.S. military; 2) to counter religious discrimination; 3) to stop proselytizing of foreign nationals by the U.S. military; 4) “to stop the systemic and embedded discrimination against those who are not fundamentalist Christians”³²; and, 5) to support DOD personnel against the “unconstitutional abuse of forced religious oppression from their military chains of command.”³³

The 2010 Nobel Peace Prize nomination letter further clarifies MRFF’s agenda as the language and tone appears to reflect closely the attitude and passion of MRFF’s founder. The 15 October 2009 redacted letter states MRFF’s clients “find themselves targeted by power wielding fundamentalists, superior to them in the military chain of command....”³⁴ It further states,

The brutal yoke of religious oppression wrought from the draconian spectre of U.S. military command influence is extremely painful. Normal and traditional internal military personnel recourse has been so terribly corrupt by this same religious extremism scourge that MRFF stands completely alone as the only entity to whom the thousands of victimized servicemen and servicewomen can effectively turn for help. MRFF works tirelessly in the courts and in the media to expose this extremely dangerous mixture of American military fanatical religious proselytizing with U.S. weapons of mass destruction.³⁵

Additionally, MRFF believes chaplains are forcefully proselytizing. In fact, Mr. Weinstein used Chaplain, Brigadier General Cecil Richardson’s prescribed quote from a New York Times article to highlight this issue both in his litigation and book.³⁶ Ch. Richardson, then the USAF Deputy Chief of Chaplains, supposedly said, “We will not proselytize, but we reserve the right to evangelize the unchurched.”³⁷ Ch. Richardson then added, “The distinction is that proselytizing is trying to convert someone in an aggressive way, while evangelizing is more gently sharing the gospel.”³⁸ Weinstein dismissed Ch. Richardson’s clarification as he said, “evangelizing is merely a Christian form of proselytizing. Anytime a senior officer asks to discuss religion, a lower-ranking service member would feel coercion.”³⁹

Using their own vivid language, MRFF’s thesis could be stated as military members are under rigorous and unusually severe attacks of terror of religious oppression by fanatically

religious, proselytizing power-wielding-fundamentalist military commanders. Even though this thesis statement captures MRFF's sentiment and tone, a simpler restatement is commanders must not discuss religion to any subordinate as it automatically could be perceived as coercive. Central to this thesis is whether commanders are using their position of authority to coerce or unduly influence, either intentionally or unintentionally, Airmen toward adopting some particular faith expression.

Given the thesis presented above, the antithesis would be all Airmen, regardless of rank or position, have the constitutional right to live and express their religious faith tenets. Unless commanders (and all Airmen) are able to express their faith without constraint, they are being denied free exercise of religion and free speech. The Establishment and Free Exercise Clauses balance each other because the state can neither coerce an individual toward a particular religion nor limit free expression of religion and speech. If the government or courts limit religious expression and speech in the military, then they become equally coercive and restrictive with individual rights. Any *freedom of religion* limitation becomes a step toward *freedom from religion*. Free exercise of religious expression and speech are so foundational to individual freedom, any institutionally forced constriction is equally to be avoided. Any government or litigated restriction *of* religion automatically becomes a coercive step *from* religion.

The challenge is how to find balance between these two competing perspectives of potential coercion. Therefore, having defined a thesis and antithesis, we need a synthesis. The military's hierarchal command structure bears careful scrutiny of any potential coercive action created by a commander sharing his or her faith. Military command is a sacred trust of responsibility. Using a position of power to force another to accept any religious position is contrary to individual freedom of conscience and is disruptive to good order and discipline. Any

faith perspective that uses any form of real or implied force on others to accept a specific faith tenet is not religious freedom but religious tyranny. An individual's religious freedom must not be restricted by any authority to choose to believe or not.

However, an equal danger exists to perceive any religious expression by a person of authority to have an automatic coercive effect on those who choose not to embrace a particular faith perspective. For argument sake, a commander's religious expression could have an equally positive effect on others and could help create an environment that exhibits respect for human dignity regardless of a person's race, gender, or religion.

After careful analysis, the issue is not coercion but offense. For many, including MRFF, being offended becomes the standard to determine coercion. With individual expression, the problem is someone will always be offended. Religion creates passion for those who adhere to it as well as those who want nothing of it. One blogger offered, "Religion will KILL this country. It's truly terrifying and must be investigated. Thank you MFRR... God, I hate religion (sorry for the unintended pun)." ⁴⁰

It is critically important to realize that to guard against any possibility of offense is to over constrain. To base restrictive guidance on the potential of offense is too costly of an abrogation of individual freedoms. Consequently, to use whether or not someone was offended to determine religious coercion is a faulty proposition and woefully deficient.

The challenge, then, is to create an environment that respects free exercise of religion and speech while recognizing potential risks of perceived or real coercion. A synthesis view recognizes both freedom and sensitivity of religious expression while equally respecting others' freedom of conscience. Accordingly, free expression of religion does not imply forced acceptance. To imply otherwise is to reveal one's hypersensitivity from one's own world view.

If one constrains all religious expression by commanders in order to avoid offense, then we are creating a society *from* religion and not *of* religion. Is this the unspoken goal of watchdog groups?

To seriously address the issue of First Amendment rights and DOD's emphasis on spiritual fitness, another approach must be used. To hold commanders hostage under a threat or accusation of coercion and abuse of power if they express anything religious is simply too egregious. While some limitations within a command structure must exist because of potential abuse of power, a different paradigm is a must. If one's proposition is to protect free expression and to protect against religious coercion (and not offense), the synthesis would allow religious dialogue, even from commanders, while defining very clear, self imposing boundaries to protect against potential abuse of power.

Any strong bias in a position not only heightens sensitivity toward perceived abuses but also energizes a reaction. Therefore, any restrictions on constitutionally protected freedoms must have overwhelming weight to justify its action and consequences. It is imperative to beware of lingering effects in response to watchdog groups' efforts. Unfortunately, these accusations of religious coercion are reaching a feverous pitch with people becoming hypersensitive.⁴¹ This growing tension within the USAF is having a causal effect which, in turn, may create additional reactions known as second and third order of effects or unintended consequences.

Unintentional Consequences

Because of watchdog groups' media and litigation efforts, commanders are increasingly cautious to express anything religious as watchdog groups, the media and bloggers⁴² are vilifying commanders. While each case should be carefully investigated and properly handled, overreaction is equally destructive.

The atmosphere toward religious expression within the military is changing as many officers believe the USAF's religious atmosphere is increasingly hostile.⁴³ One very senior officer, who wished to remain anonymous, told this author, "Being a Christian and an officer right now can be difficult as we are in a high-threat, hostile environment. I have friends who are out of the USAF simply for being a Christian."⁴⁴

While some watchdog groups argue these adjustments are long overdue, this author believes all religious expression is becoming increasingly constrained within the USAF. All Airmen are becoming increasingly guarded about using any religiously oriented expression. Taken to the extreme, Airmen could be completely restrained from expressing their faith outside chapel walls. If this direction fully matures, then part of America will have morphed from a society with freedom *of* religion to a society with freedom *from* religion.

How should HC respond to these challenges by watchdog groups like MRFF? Additionally, how can chaplains help commanders analyze and deal with these challenges? Several recommendations are in order.

RECOMMENDATIONS

To counter this unconstitutional morphing within the military, HC must engage at a strategic level and help commanders avoid any potential of religious coercion.

USAF Chaplain Corps' Strategic Engagement

To mitigate the growing tension between religious coercion and religious expression, HC must engage and communicate strategically. How? First, HC should conduct an intensive internal look to see how it may have perpetuated the current climate of hostility toward religious expression. An honest self-assessment is a precondition as HC distills any elements of truth from the inflammatory noise of MRFF's accusations. If MRFF's numbers of complaining personnel

are accurate, some of these Airmen must be coming to chaplains. If they are, what are chaplains doing to confront these issues? Additionally, it may be possible to engage some of these watchdog groups to initiate dialogue, find common interests, critically review issues, gain better understanding, and discover useful approaches to mitigate these issues. While these partnerships may be difficult because of current polarization, the process may perpetuate an honest assessment on all sides.

Second, HC needs to do a thorough analysis of the changing religious demographics. Using American Religious Identification Survey data,⁴⁵ a religious demographic analysis may shed understanding on the growing emotional intensity of those who feel coerced. By better understanding these trends, HC may need to adapt its approaches of religious accommodation within an increasingly secular military.⁴⁶

Third, HC must become even more proactive in supporting religious expression of all Airmen, especially commanders, while protecting against potential religious coercion. Chaplains must continue to be faithful to their faith tenets. Additionally, chaplains must continue to provide for those of like faith while respecting those of different or of no faith. Chaplains must build greater awareness of minority groups' concerns and must ensure the institution continues to respect those of religious faith and those who hold a humanistic world view. Each chaplain must be a champion of promoting religious tolerance and respect at all levels.

Fourth, HC must help find a balance between the freedom of religious expression and speech of the individual and the complex needs of the organization. The answer is not to restrict all religious expression to avoid any offense. Instead, any message of religious expression must be shaped by respect, tolerance, community, dialogue, and collaboration. In the struggle, all should learn from each other's worldview, values, and culture. The key is respectful dialogue.

Fifth, HC must continue to develop both internal and external strategic messages at the USAF and DOD level to bring clarity to these complex religious issues for the public, Airmen, and commanders. HC can become even more active in defining and articulating key issues rather than letting watchdog groups potentially shape public perception and military policy. These messages must be clear, consistent, and repeated in a multitude of media and social networking outlets. HC must carefully engage the extremist's views to counterbalance their effects by working with astute media organizations and outlets. Major General (retired) Jack Catton suggested the following strategic messages:

- The U.S. has a rich faith heritage in the military that must not be abandoned.
- Faith is a critical part of the warfighters' ethos. Faith is not something you do, faith is who you are; therefore, DOD leadership should continue to go to great lengths to meet and support the spiritual needs of military members of all faiths.
- The military respects all faith expressions. An individual's faith is vitally important as it defines who the person is, how he or she will act (especially in difficult times), and who the individual will become. As such, it is OK to tell people who you are, just don't tell them who to be.
- To suggest that military men and women should risk their own lives to protect American freedoms and forfeit their own religious freedom is absurd!⁴⁷

Given the analysis and strategic engagement, HC must continue to support commanders; these guidelines may help.

Guidelines for Commanders

Without question, the USAF is a secular organization. Its mission is to *fly, fight and win...* in air, space and cyberspace.⁴⁸ Obviously, commanders have huge responsibilities to lead their teams to accomplish the USAF's mission. It is not the USAF's mission to proselytize, intimidate, or coerce religiously; however, all Airmen take an oath to support and defend the Constitution which includes the individual's First Amendment protection of free exercise of religion.⁴⁹ Therefore, the USAF must continue to affirm, uphold, and value Airmen's spirituality without defining it.⁵⁰ The USAF must support policy that respects all religious dialogue and expression.

Therefore, the USAF and DOD must absolutely avoid a “do no-offense” perspective regarding religious expression. The goal is not to constrain religious expression by commanders, chaplains, and any Airmen. The goal is to encourage healthy, respectful, and tolerant expressions within the military culture.⁵¹ The USAF and DOD must continue to support spiritual fitness even if the culture grows more secular and even more hostile to religion.

Given the issues discussed in this paper, commanders have a challenging responsibility to balance the establishment and free exercise clauses. Obviously, leaders who have command authority are held to a very high standard because of the sacred trust that comes with their position of leadership and responsibility. Commanders are held to a higher level of accountability to use wisely their authority in this sphere of religious influence. Commanders must carefully balance their own free exercise of religion and speech while guarding against any perception of religious coercion. To simply decree any and all religious expressions from commanders as inappropriate is to overreact. To diminish all concerns of those who feel coerced or offended is equally irresponsible. Commanders must continue to sense the power-gap between themselves and those they lead. They must avoid any action or appearance of favoritism based on religious affiliation.

How can commanders navigate these issues of religious coercion and religious expression? How can they be faithful to their own faith tenets while avoiding any perception of coercion?⁵² First, commanders must understand that some people see rank and they hear anything the person in authority says as direction. The higher the authority, the quicker Airmen prescribe any expression of faith as direction and thus possibly perceive coercion from the commander. Commanders must be consistent in support of both religious and non-religious expressions. They run a risk if others perceive them as Christian leaders instead of AF leaders,

who happen to be Christian. This is not to deny what is ultimately important in their lives but to “give to Caesar what is Caesar’s, and to God what is God’s.”⁵³

Second, commanders can express their faith tenets in a context when it has no sense of commander direction. According to a very senior commander, when something good happens, one can say he or she is “blessed” instead of “lucky.” Or, during a promotion ceremony, one could express being “grateful to God.”

Third, commanders can always express their faith tenets and spirituality through their character, core values, authenticity, and integrity. Consistency in how a commander acts, talks, and leads does make an impression.

Fourth, commanders should anticipate the potential of becoming a target of a disgruntled person or of a watchdog group. If that happens, the commander should immediately pull together a cadre of professionals (Jags, Public Affairs, Chaplains) to help analyze and respond to the issue.

Fifth, commanders should make maximum use of the Chaplain’s office or the Wing organizational box (and not the commander’s personal email account) to send out official notices for anything that could be perceived as being religious.

Finally, commanders, as they are responsible for the spiritual fitness of their Airmen, should work very closely with the Wing Chaplain as spiritual needs are identified, resourced, and supported. As such, commanders should not fear attending or supporting events sponsored by the chapel. Additionally, a commander’s support for a public prayer is not an act of proselytizing but recognizes the importance of a long national tradition in acknowledging the Divine just as the U.S. currency included the official motto, “In God We Trust.” As such, commanders and DOD

can support ceremonial prayer with its rich historical past as it has stood the constitutional test in litigation.⁵⁴

CONCLUSION

The USAF is under growing scrutiny to determine if religious expression by commanders and chaplains is coercive. Watchdog groups, like MRFF, are increasingly using media and litigation to challenge religious expression within the military. While the USAF must carefully investigate all cases for legitimacy, the USAF and DOD must avoid over-reacting to the deafening noise of media and litigation pressures while carefully protecting religious expressions as protected by the Free Exercise and Speech clauses. Most importantly, the USAF and DOD must not confuse offense as coercion or undue influence. To create restrictive guidance or policy on the potential of offense does not offset the constitutional freedom of religious expression and speech. Using whether or not one was offended to determine religious coercion is a faulty, woefully deficient proposition and must be avoided. Finally, this paper proposed several recommendations for both the Chaplain Corps and commanders as too much is at stake to ignore these issues. Hopefully, this paper will bring creative dialogue among all those concerned and will result in even better solutions.

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END NOTES

1 Mathis III, 1998, p. 10.

2 Its preamble stated, “in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.”

3 Bill of Rights 1791.

4 Religion and the Founding of the American Republic 2007.

5 This paper’s focus is not religious accommodation but religious expression. These two issues are similar but would warrant separate consideration. It is worth noting that DOD Instruction 1300.17, Section 4 does place a limit on Religious Accommodation of those within the military. It states, “The U.S. Constitution proscribes Congress from enacting any law prohibiting the free exercise of religion. The Department of Defense places a high value on the rights of members of the Military Services to observe the tenets of their respective religions. It is DOD policy that requests for accommodation of religious practices should be approved by commanders when accommodation *will not have an adverse impact on mission accomplishment, military readiness, unit cohesion, standards, or discipline.* (Italicize emphasis mine.) (Accommodation of Religious Practices Within the Military Services (DOD Directive 1300.17, 2009) Thus, commanders should approve requests for religious accommodation unless there is a good military reason to deny a request. Typically, religious accommodation requests come in the form of being able to wear some form of religious apparel, to eat some type of prepared meals, or to observe some type of religious observance. Granted, some requests for religious accommodation would have a negative impact and should be disapproved. For instance, the wearing of a religious headpiece like a yarmulke or a kippah on the flight line would pose a safety risk of being sucked up in jet engines. This author’s most recent experience in helping commanders decipher religious accommodation issues related to Airmen wearing the sign of the cross placed by the Roman Catholic Priest on Ash Wednesday. Two Airmen were told by their supervisors to remove the dark markings on their forehead while they were in uniform. Unfortunately, these supervisors neither consulted their commander nor chaplain to determine the appropriate response before ordering their Airmen to wash off the ashes. As a result, the two Airmen removed the marking that they would have worn the rest of the day thus denying them their religious expression within their Catholic faith. As Wing Chaplain, the author briefed all the commanders to the issue and the DOD instructions at the next Wing Staff meeting.

6 Department of Defense Directive 1304.19. 4.1 Appointment of Chaplains For the Military Departments 2007. The Armed Forces Chaplains Board is responsible to the Secretary of Defense and the Under Secretary of Defense for Personnel and Readiness on religious, ethical, and moral matters. Additionally, this board coordinates with denominational endorsers to secure personnel fully qualified to serve as military chaplains.
<http://www.defenselink.mil/prhome/mppchaplain.html>.
(All notes appear in abbreviated form. For full details, see the appropriate entry in the bibliography.)

7 While the issues discussed in this paper apply to the entire Department of Defense, this author limited this paper’s focus to the United States Air Force commanders and chaplains.

8 One example of the current cultural sensitivity is the tension between “Merry Christmas” or “Happy Holidays.” This tension exists on Air Force bases as a squadron advertises its family gatherings in December. Jeffrey Dean wrote a delightful article entitled ““Happy Holidays” Vs. “Merry Christmas”: The Breakdown”” He indicated that in an effort to embrace multi-culturalism and inclusiveness, Merry Christmas became politically incorrect and out of vogue for many businesses and communities. Instead people used Happy Holidays as a way to be non-discriminatory and religiously neutral. However, he found the new emphasis was not sustainable when one analyzed the word backgrounds. He noted, “Perhaps the answer is to place some of the onus for acceptance of others on listeners as well as on speakers. Anyone can be offended, at any time, if s/he chooses to be so.” (Dean, Jeffrey, 2009, January 5). *“Happy Holidays” Vs. “Merry Christmas”: The Breakdown*. Retrieved September 19, 2009, from Associated Content Lifestyle: http://www.associatedcontent.com/article/1289833/happy_holidays_vs_merry_christmas_the.html?cat=7.)

9 While this paper’s focus is not to dissect legally the First Amendment, it is; however, worth noting the Constitutional complexity. Fitzkee and Letendre indicated that given the simplicity of the First Amendment’s religious clauses wording, in practice these two clauses abound in intricacy. They illustrated that in a ten year period starting in 1995, the U.S. Supreme Court made thirteen civilian case rulings under the Establishment and Free Exercise clauses. In the military, the First Amendment guarantees are even more complicated as the rights of the individual must be balanced against the needs of the military. While the military seeks to honor Airmen’s right to exercise freely their religious faith (e.g. to attend a worship service), a military mission requirement may preclude their right (e.g. to participate while in a combat operation). See Fitzkee and Letendre 2007, 5. Also see The National Association of Evangelicals Statement on Religious Freedom for Soldiers and Military Chaplains, 7 February 2006 for a comprehensive legal review and guidance.

10 The Army Chaplaincy’s statutory authority is Title 10 U.S.C., section 3037. The Navy and Air Force Chaplain Programs also have statutory authority, Title 10 U.S.C., section 5142 and 8067(h) respectively.

11 755 F.2d 223, 234; 2nd Cir.1985. Major Michael J. Benjamin gives a good summary of the Court’s opinion. His article can be downloaded at <http://www.maaf.info/downloads/armylawyerov98religionissues.pdf>, (Benjamin 1998)

12 Department of Defense Directive 1304.19. 4.1 2007.

13 The Enlisted Force Structure (AFI 36-2618; section 4.1.4.4), 2009, p. 10.

14 Air Force Policy Directive (AFPD 52-1 section1), 2006, p. 1.

15 It is important to make the distinction between proselytize and evangelize. Proselytize is defined as “to convert or attempt to convert as a proselyte; recruit.” (Proselytizing.

Dictionary.com. *Dictionary.com Unabridged (v 1.1)*. Random House, Inc.

<http://dictionary.reference.com/browse/proselytizing> (accessed: September 13, 2009).

Evangelize is defined as “to preach the gospel to or to convert to Christianity.”

(Evangelize. Dictionary.com. *Dictionary.com Unabridged (v 1.1)*. Random House, Inc.

<http://dictionary.reference.com/browse/evangelize> (accessed: September 13, 2009).

While these two definitions appear very similar, the intent of the actions is significantly different for chaplains. Proselytizing carries a sense of reaping the benefits of another’s effort as though stealing from his or her garden. For instance, if an Airman, who had one particular faith group expression, was having questions and concerns about his religion, chaplains would be

proselytizing by taking advantage of his questions to manipulate him away to another faith group. In other words, it would be the chaplain's intention and efforts to change him from an "X" to a "Y." Thus, the focus of proselytizing would be for a chaplain's denominational group to gain a convert at another group's loss.

Evangelizing, in contrast, has an entirely different focus. The intent is for the person to gain or benefit. Thus, to evangelize is to share to another for that person's gain. It must carry no form of coercion or manipulation as it is more about a dialogue. Many in the evangelical faith groups believe evangelization is an act of spiritual obedience (of Christ's command to make disciples) and is like offering of "a cup of water to a person dying of thirst."

The critical issue is when one's felt responsibility to offer "a cup of water" becomes an affront to another. After reading many passionate blogs, it is amazing the intensity any discussion of religion creates. To some, at least, the issue is no longer about the "cup of water" but the fact that one would even offer the cup in the first place. In the days of anything goes under the protection of free speech, what is it about religious speech that generates such hostility? Is our society so changing that anything can be said as long as it is not about Jesus Christ specifically? In our increasingly tolerate society, it appears our society is becoming increasingly intolerant with Christianity.

16 More information can be found at each of these groups web sites: The Military Religious Freedom Foundation (MRFF) (<http://www.militaryreligiousfreedom.org/about.html>). Americans United for Separation of Church and State (<http://www.au.org/about/>) and Americans Civil Liberties Union (<http://www.aclu.org/>).

17 Defining what evangelical Christianity is depends on many factors. One can define evangelical Christianity with either narrow or board terms. The definition also depends on context, especially if one is comparing evangelicals with another group like fundamentals. Broadly speaking, an evangelical Christian believes in the major faith tenets of the inspiration, inerrancy, and authority of Scripture, the Trinity, the deity of Christ, and salvation by grace through faith alone and believes Christ commissioned each believer to share the Gospel or the "Good News" throughout the world. The media often portrays the evangelical Christian as a right wing, fundamentalist who has political aspirations.

<http://www.wcg.org/lit/church/evangelic.htm> offers a quick but good overview. B. L. Shelby offers in the Dictionary of Christianity in America a description of evangelicals from a denominational perspective. "Within a broad unity based on commitment to the Bible as its religious authority and on the gospel of Christ's saving work as the church's central message, we can identify at least seven evangelical traditions of faith:

- Evangelicals in the Reformation tradition, primarily Lutheran and Reformed Christians.
- Wesleyan evangelicals, such as the Church of the Nazarene
- Pentecostal and charismatic evangelicals, such as the Assemblies of God
- Black evangelicals, with their own distinctive witness to the gospel
- The countercultural churches (sometimes called Peace Churches), such as the evangelical Quakers and Mennonites
- Several traditionally white Southern denominations, led by the Southern Baptists
- The spiritual heirs of fundamentalism found in independent churches and many parachurch agencies" Shelley 1990, p. 416.

18 Matthew 28:16-20 "Then the eleven disciples went to Galilee, to the mountain where Jesus had told them to go. When they saw him, they worshiped him; but some doubted. Then Jesus

came to them and said, "All authority in heaven and on earth has been given to me. Therefore go and *make disciples* (emphasis mine showing the imperative of the original Greek language) of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, and teaching them to obey everything I have commanded you. And surely I am with you always, to the very end of the age." Scripture taken from the HOLY BIBLE, NEW INTERNATIONAL VERSION®. Copyright © 1973, 1978, 1984 Biblica. Used by permission of Zondervan. All rights reserved.

19 MRFF's website is <http://www.militaryreligiousfreedom.org/> (accessed 12 September 2009). Article VI of the U.S. Constitution says in part, "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the U.S. and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."

See <http://www.usconstitution.net/const.html#Article6> for the whole Article. (accessed 2 November 2009).

20 About The Foundation 2009.

21 M. Weinstein, *The Fight for Freedom at Home* 2006.

22 Ibid.

23 Weinstein and Seay 2006, p. 27.

24 Sharlet 2009, p. 1.

25 Ibid.

26 <http://www.militaryreligiousfreedom.org/weekly-watch/2-13-09/weeklywatch.html> (accessed: 26 October 2009).

27 Sharlet 2009, p. 1.

28 Motion to Intervene of the National Association of Evangelicals and Its Chaplains Commission, p. 11.

29 This author had the opportunity to dialogue with several senior officers either by e-mail or in person. Additionally, being at Air War College enabled this author numerous interactions with Lieutenant Colonels and Colonels with command experience. An additional study should do a scientific survey with commanders to validate this growing anecdotal evidence.

30 Coercion. Dictionary.com. *Merriam-Webster's Dictionary of Law*. Merriam-Webster, Inc. <http://dictionary.reference.com/browse/coercion> (accessed 6 October 2009).

31 Undue Influence. Dictionary.com. *Merriam-Webster's Dictionary of Law*. Merriam-Webster, Inc. [http://dictionary.reference.com/browse/undue influence](http://dictionary.reference.com/browse/undue%20influence) (accessed 6 October 2009).

32 http://www.militaryreligiousfreedom.org/press-releases/nobel_pr_intl.html (accessed 2 November 2009). "Since its founding in 2005, the MRFF has become the undisputed national and international leader in the civil rights movement to restore the severely fractured wall between church and state in the U.S. military and to stop the ill effects of noxious religious discrimination both domestically and abroad. The growing organization currently has over 15,000 constituent clients from today's American active duty military, amazingly most of them practicing Christians. MRFF has also fought aggressively for the Constitutional rights of United States service members who are Jews, Muslims, Buddhists, Hindus, Sikhs, atheists, agnostics and other religious minorities, and to stop the unbridled proselytizing of Afghans, Iraqis, Pakistanis and other foreign nationals by the U.S. military.... The MRFF has tenaciously taken on the U.S. military with a bold, brave approach to stopping the systemic and embedded

discrimination against those who are not fundamentalist Christians in today's armed forces, as well as against the citizens of the Islamic countries where our military is presently engaged in combat operations. Such egregious acts of bigotry and prejudice include violence and threats against U.S. sailors, soldiers, marines, airmen, cadets and midshipmen who will no longer accept the unconstitutional abuse of forced religious oppression from their military chains of command."

33 Ibid.

34 MRFF Nobel Prize Nomination Letter 2009. The redacted 2010 Nobel Peace Prize nomination letter, dated October 15, 2009 nominating MRFF can be found at http://www.militaryreligiousfreedom.org/press-releases/nobel_letter.html (accessed 2 November 2009).

35 Ibid.

36 Michael L. Weinstein and Davin Seay wrote a book related to the USAF Academy entitled, "With God on Our Side: One Man's War Against an Evangelical Coup in America's Military." (Weinstein and Seay 2006, 122).

37 <http://www.nytimes.com/2005/07/12/national/12chaplains.html> (Goodstein 2005).

38 In an Air Force Times interview, Ch. Richardson responded to his statement on "we reserve the right to evangelize the unchurched." Ch. Richardson referenced a Chaplain's Code of Ethics published by the National Conference on Ministry to the Armed Forces that was given to all new chaplains but later pulled in light of Weinstein's litigation. Interview Question: "You've been scrutinized for condoning "evangelizing the unchurched."

Answer: "Nobody ever asked me if I ever said that. The young lady who quoted me on that, she didn't have a pen with her. She's from The New York Times. We were at Colorado Springs at our "Spiritual Fitness" conference. The person doing the program was ... a Christian Scientist, the music was done by a Roman Catholic and the sound system was [run by] a Baptist guy. The whole front row was Orthodox Jews. She was just blown away. "How do you get along? Aren't you going after each other's people?" I said, "Oh no, we never do that. If you want to do that, you wouldn't be a chaplain. Besides, we have a code of ethics." Most chaplains have the thing memorized. It's not an Air Force or [Defense Department] code of ethics. It's a code of ethics for chaplains, for those who endorse us [the National Conference on Ministry to the Armed Forces, a private association]. One of the parts of the code says we will not proselytize, but we reserve the right to "evangelize the unaffiliated." I thought nobody would pay attention to that. Well, goodness! Bless her heart, though. She wasn't being antagonistic." (Winn 2008).

39 U.S. Seeks Dismissal of Academy-Religion Suit 2006

40 Rodda 2009.

41 A sidebar issue is invocations given by chaplains at staff meetings, enlisted promotions, special events, and other military gatherings. Is any invocation given by a chaplain in a military setting, regardless of being a mandatory formation or not, abusive or coercive? More and more atheists are complaining about being forced to attend military formations where Christian prayers are given. (See Air Force Times, 30 Dec 2008, Lawsuit on religion in military expanded.) Is it coercive for someone to be exposed to a prayer at a military gathering? Is a thirty second prayer a chaplain might pray an object that creates terror in the hearer who objects? Is the prayer causing real or perceived consequences if the person ignores the prayer? Or, is the chaplain's prayer a simple recognition of the spiritual fitness encouraged by the military in recognition of both America's history and the challenges placed upon its members. Is offering a sectarian

prayer a coercive act or simply an act supported by longstanding military tradition? Some argue the military is a secular organization and therefore has no need for invocations of any kind at its gatherings. Congress too is secular and yet it opens its proceedings with a prayer. The real issue is the increasing secularization by our society and the offense raised against these long standing traditions.

42 For an example of blogger's comments on a commander, see <http://undergroundunbeliever.blogspot.com/2009/02/air-force-colonel-sends-crazy-right.html>. (Air Force Colonel Sends Crazy Right-wing Email 2009)

43 While numerous examples exist, one illustrative example was a Colonel's email effort to encourage her Airmen at the 501st Combat Support Wing headquartered at RAF Alconbury. According to Stars and Stripes, she imposed her far-right Catholicism on her Airmen thru a video link she shared in an email to the 501st Combat Support Wing. The video featured Nick Vujicic, a 25-year-old born of no arms or legs. (The video can be viewed at http://www.youtube.com/watch?v=0DxlJWJ_WfA or <http://www.lifewithoutlimbs.org/>. The website states, "It is a great privilege to welcome you to the LifeWithout Limbs.org website. My name is Nick Vujicic and I'm 26 years old. I was born without arms or legs and given no medical reason for this condition. Faced with countless challenges and obstacles, God has given me the strength to surmount what others might call impossible. Along with that, the Lord has placed within me an unquenchable passion to share this same hope and genuine love that I've personally experienced with more than two million people all over the globe." (The Official Nick Vujicic Website n.d.)(Accessed 27 November 2009). In response, a solitary 501st member filed a formal complaint against her saying she inappropriately advanced her faith in an official capacity. The Master Sergeant felt she "compelled us to witness an exercise in religious-specific faith that I felt was in conflict with DOD neutrality on religion" and "violated USAF regulations regarding religious proselytizing." (Ziezulewicz 2009)

This author, after 20 years of active duty, has yet to see any regulation that would support she violated Air Force regulations regarding religious proselytizing. The Wing Commander apologized for her e-mail and said she did not realize the Web site contained inappropriate content (referring to comments about President Obama). "I sincerely apologize for this oversight, especially to those individuals who may have been *offended*, and want to ensure all are aware that my intent was solely to provide a tool that might offer beneficial insight toward overcoming adversity." What was meant to be an encouraging video to persevere, at least one interpreted her actions as being religious coercive. Was she really pushing a faith agenda? Or was someone simply offended by the message? Apparently the investigation cleared her of any willful and intention act of Equal Employment Opportunity guidelines as the Third USAF Commander "took appropriate action" and closed the case. (<http://www.stripes.com/article.asp?section=104&article=61757>.)

44 Interview of senior officer, 15 October 2009.

45 American Religious Identification Survey 2008, 2009, p. 3. The ARIS 2008 survey indicates America is in fact becoming more secular. "The 2008 findings confirm the conclusions we came to in our earlier studies that Americans are slowly becoming less Christian and that in recent decades the challenge to Christianity in American society does not come from other world religions or new religious movements (NRMs) but rather from a rejection of all organized religions. To illustrate the point, Table 1 shows that the non-theist and No Religion groups collectively known as "Nones" have gained almost 20 million adults since 1990 and risen from

8.2 to 15.0 percent of the total population. If we include those Americans who either don't know their religious identification (0.9 percent) or refuse to answer our key question (4.1 percent), and who tend to somewhat resemble "Nones" in their social profile and beliefs, we can observe that in 2008 one in five adults does not identify with a religion of any kind compared with one in ten in 1990."

46 This author recommends this topic for an ACSC or AWC professional paper.

47 Catton to the author, personal e-mail.

48 <http://www.af.mil/information/viewpointarchive/jvp.asp?id=401>

49 5 USCode Sec. 3331 (01/24/94) Oath of Office (Title 5, Part III, Subpart B, Chapter 33, Subchapter II, Sec. 3331) Sec. 3331. - Oath of office - An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." This section does not affect other oaths required by law.

50 The US Army crafted an interesting approach for West Point. See the book, *Forging the Warrior's Character: Moral Precepts from the Cadet Prayer* by Don Snider.

51 Any non-revisionist read of George Washington and the early Constitutional fathers will quickly affirm their perspective in being able to share their Christian faith.

52 These suggestions grew out of dialogue with several senior level commanders. Given the hostile nature currently in the Air Force toward religious expression, these commanders asked to remain anonymous.

53 Matthew 22:15-22

54 See The National Association of Evangelicals Statement on Religious Freedom for Soldiers and Military Chaplains, 7 February 2006 for an excellent discussion of the historical and constitutional nature of ceremonial prayer.