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VIA FACSIMILE: 707-424-5936

Colonel Dwight C. Sones
Commander, 60th Air Mobility Wing
400 Brennan Circle, Travis AFB CA 94535

Dear Colonel Sones:

We have received your letter sent at approximately 6 pm on Friday, December 16, 2011. We are disappointed that Travis AFB has chosen not to honor the request of servicemen and women who do not support Travis's endorsement of a religious message.

We continue to assert that the Travis AFB display violates the Establishment Clause of the First Amendment. Specifically, several factors support that the Air Force has acted with the "ostensible and predominant purpose" of advancing religion. *McCreary County v. American Civil Liberties Union of Ky.*, 545 US 844, 866 (2005) ("When the government acts with the ostensible and predominant purpose of advancing religion, it violates that central Establishment Clause value of official religious neutrality, there being no neutrality when the government's ostensible object is to take sides.").

Most significantly, the Air Force's refusal to move the religious symbols to the chapel grounds, or even to respond to this aspect of our request, suggests that those symbols were intentionally given favored treatment. Although Travis has allowed some groups to install secular displays on the base, the two religious symbols (the Nativity Scene and Menorah) were placed at the busiest intersection of the base in the most prominent position of all the displays. Moreover, we understand that the Nativity Scene was the first display, with other installations added later. Other than the Christmas tree, the Nativity Scene is the only display that has significant lighting and is three dimensional, and it is taller than the other displays. If, in fact, all displays are co-equal and there was no intent to give the religious symbols preferential treatment, there is no logical reason why the Wing Chaplain's display is not most appropriately located at the chapel grounds, where it would be enjoyed by members of the community without a First Amendment violation. Failure to utilize this reasonable alternative, or even acknowledge it, suggests the endorsement of religion was intentional. *Id.* at 866 ("[I]t is . . . the duty of the courts to 'distinguish[h] a sham secular purpose from a sincere one.'") (quoting *Santa Fe Independent School Dist. v. Doe*, 530 U. S. 290, 308 (2000)).

The history of this display also supports the inference of religious purpose. *Id.* ("The world is not made brand new every morning . . . [Purpose must determine by a reasonable observer who is] familiar with the history of the government's actions and competent to learn

what history has to show.”). Unlike the Ten Commandments display upheld in *Van Orden*, which was sponsored and erected by a private, secular institution for a nonreligious purpose, the Air Force admits that the Nativity Scene and Menorah displayed at Travis AFB were sponsored by the Wing Chaplain, a religious figure on base. *See Van Orden v. Perry*, 545 US 677, 701 (2005) (where Justice Breyer explained that a monolith bearing the words of the Ten Commandments could be displayed before the Texas State Capitol, because the display was paid for and erected by a private “civic (and primarily secular) organization [which] sought to highlight the Commandments’ role in shaping civic morality as a part of [its] efforts to combat juvenile delinquency.”). However, nothing on or around the Travis religious displays serves to “distance” the Air Force from the Chaplain’s overtly religious message. *But cf. id.* at 702 (noting that the display contained a dedication from that private organization that “distance[d the government] . . . from the religious aspect of the Commandments’ message”); *see also Allegheny County v. Greater Pittsburgh ACLU*, 492 U.S. 573, 617 (1989) (holding that the dedication on the County’s holiday display celebrating liberty “serves to confirm what the context already reveals: that the display of the menorah is not an endorsement of religious faith but simply a recognition of cultural diversity”). Indeed, the identification of the display as being sponsored by the chaplain confirms that it is more appropriately located at the chapel, as we requested.

The fact that the Air Force has allowed some groups to install secular displays on the base does nothing to change our analysis. Indeed, the fact that the Air Force found it necessary to permit certain groups to install secular holiday signs following its installation of the Nativity Scene and Menorah suggests that it understood that its initial display was unconstitutional. *See McCreary*, 545 US at 867-874 (holding that two displays of the Ten Commandments in Kentucky courthouses were invalid, because they initially contained only “large, gold-framed copies of an abridged text of the King James version of the Ten Commandments,” and later were altered to include secular messages solely to avoid liability). Moreover, it has come to our attention that some groups have had difficulty obtaining permission from the base to display their holiday signs. In fact, at least one display sponsored by an atheist organization initially was rejected. For these reasons, it appears that Travis AFB’s purpose in erecting these displays was to endorse certain religious beliefs.

Accordingly, we renew our request that Travis AFB either remove the Nativity Scene and Menorah from its premises or move them to the chapel grounds. If this request is not honored by the close of business on Monday, December 19, 2011, we also demand a meaningful response to all of the issues presented by our letters, including our request to move the religious symbols to the chapel grounds, by the close of business on December 19, 2011 so that we may consider other options in a timely fashion.

Sincerely,

Katherine S. Ritchey